

DECLARATION OF RESTRICTIONS

OF

BRIAR HILL SUBDIVISION SECTION NINE  
a/k/a Briar Hill Estates Section IX

The undersigned, BRIAR HILL ESTATES L.L.C., a Kentucky Limited Liability Company, of P.O. Box 8, Crestwood, Kentucky, hereinafter referred to as Owner or Developer, does this 17<sup>th</sup> day of Sept., 2007, hereby adopt the following as restrictions for Briar Hill Subdivision Section Nine (a/k/a Briar Hill Estates Section IX) located near Crestwood, in Oldham County, Kentucky.

WHEREAS, Developer is the sole owner of certain real property in Oldham County, Kentucky, which has been developed as a residential subdivision and

NOW THEREFORE, WITNESSETH: The undersigned, being the Owner of all the lots in Briar Hill Estates, Section IX, situated near Crestwood, in Oldham County, Kentucky, does hereby adopt the following restrictions and covenants, which restrictions and covenants shall apply to all of the lots of said Briar Hill Estates, Section IX, as shown on Plat of same recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Oldham County Court Clerk's Office, to wit:

1. All lots as shown on Plat in Briar Hill Estates, Section IX shall be used for residential purposes only, with no more than one (1) dwelling house designed for occupancy for a single family to be erected on any one (1) lot.
2. No residence shall be erected on said lots having less than the following minimum square footage requirements, excluding porches, carports, garages, breeze ways, attic, basement, etc.
  - a. Full two (2) story residence, a minimum of 1,200 square feet on the main floor and 1,200 square feet on the second floor.
  - b. One (1) floor plan residence, 2,000 square feet on the main floor.
  - c. Bi-level floor plan residence, 1,600 square feet on the main floor.
  - d. Tri-level floor plan residence, 2,500 square feet, combined total of the three (3) levels.

- e. One and one-half (1 1/2) story floor plan residence, 1,500 square feet on the main floor, with a minimum of 2,200 square feet total.

The Developer reserves the right to approve or disapprove any type of residence not covered under the above floor plans. Whenever any questions arise as to the classification of any proposed structure or its compliance with the provisions of these restrictions, the decision of the Developer shall be final.

- 3. All residences must have an attached or built in garage which shall accommodate at least two (2) automobiles. All garages must open to the side or rear of the residences, except that the Developer may permit a garage to open to the front of the residence, if, in the Developer's sole judgment, such opening is justified by the physical considerations of the lot.
- 4. Residences erected shall have exterior walls of brick, veneer, stone, stone veneer, clap board, aluminum or vinyl siding, approved plywood, or any combination thereof. Use of these materials (including the color thereof) or other materials not specifically mentioned, shall first meet the approval of the Developer. Application for approval must be submitted in accordance with item 5 of these restrictions.
- 5. a. No improvements, structures, or other appurtenances shall be placed, constructed or permitted to remain upon any lot in Briar Hill Estates, Section IX, until the plans (including all elevations) and specifications (including exterior building materials) shall have been approved by Developer. Developer reserves the right to approved or disapprove, in its sole discretion, the architectural design of any building structure. The term "appurtenances" shall be void after six (6) months unless renewed or construction is commenced in accordance with said plans.

Plans for any additions to a residence, or for the construction of guest quarters, barns, or other out buildings shall also be submitted to the Developer for approval. The Developer, in its sole discretion may approve or disapprove the style, type, size or construction of any such structure on any lot unless it conforms to all the restrictions contained herein and to all regulations of the Oldham County Planning and Zoning Commission, the Department of Health and all other laws and regulations affecting the use and occupancy of said property. It is further provided that all structures and related landscaping, including tennis courts and swimming pools, shall be completed within twelve months from the date the building permit is issued or construction started, whichever shall have first occurred.

- b. No fence or wall structure or other improvement shall be erected, placed, or altered on any lot until the construction plans, and/or specifications, shall have been first approved by the Developer. Unless Developer determines that it is architecturally appropriate or made necessary by the contours of the lot (as in the case of a retaining wall), no fence or wall of any nature may extend toward the front or street side property line beyond the front or side wall of the residence. All fence materials and design of same must be approved by the Developer, provided,

however, that chain link and/or wire fences shall not be permitted as boundary line fences.

- c. The exterior building materials of all structures shall extend to ground level unless otherwise permitted by the Developer.
- d. All driveways must be properly paved within two years of substantial completion of the residence and must be constructed of asphalt, concrete, or some other appropriate hard surface material approved by the Developer.

It is the intent of these provisions to insure that the residences and all improvements placed upon any lot shall be suited to the site on which placed, and in harmony with the overall scheme of the subdivision and the character and design of improvements placed upon other lots in Briar Hill Estates Section IX. Any approval or disapproval made by the Developer, unless arbitrarily or capriciously made for reasons other than as stated herein, shall not be overruled by any tribunal.

- 6. No house trailers, basements, tents, garages or out buildings or temporary structures shall be used as a residence on any site.
- 7. No trailer, mobile home, truck, inoperable vehicle, motorcycle, commercial vehicle, camper trailer, camping vehicle (including an R.V.) or boat shall be parked or kept on any lot at any time unless housed properly in a garage or basement. No vehicle designed or intended for use or customarily used principally for commercial or recreational purposes nor any vehicle conspicuously decorated so as to indicate an actual commercial or recreational use shall be parked, stored, kept or left standing upon any lot or street, except, in the case of commercial vehicles during periods when actually necessary for the furnishing of services to the owner or owners of lots in said subdivision. No vehicle shall be continuously or habitually parked on any street or public right of way. Provided, however, that this provision shall not restrict the Developer, its successor or assigns, the right to maintain a temporary sales office of any kind for the sale of lots in the subdivision.
- 8. No animals or livestock, other than ordinary household pets, and no animals of any description which constitute a nuisance or a threat or danger to persons or property shall be kept on any lot, nor shall animals of any description be kept for boarding, breeding or commercial purposes.
- 9. No noxious or offensive conditions or activities shall be permitted or carried on upon any property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood, or a violation of any federal, state or county regulation or law affecting the use or occupancy of said property.
- 10. No commercial advertising shall be allowed within the subdivision, except that one sign for advertising the sale or rent of the property shall be permitted. This restriction,



however, shall not apply to contractors who are constructing residences, subcontractors working on any of the lots, or financial institutions actually financing the construction of the project, during the period of construction.

11. All lots shall be properly cut and/or weeded and maintained. The Developer reserves the right to approve or disapprove the general appearance or condition of any lot. If any owner fails to maintain a lot, the Developer reserves the right to mow or perform other necessary services on same and charge the owner a reasonable cost for the work, which shall constitute a lien upon the property.
12. No motorcycle, motor bike, motor scooter, mini bike, go-cart or any other motor driven vehicle of a similar nature shall be operated or driven off the streets of the subdivision. No such motor driven vehicle shall be operated on the streets in such a manner as to cause a nuisance, and same shall be equipped with a lawful, suitable and efficient muffler at all times. All state, county, and local ordinances shall be observed.
13. No owner of a lot shall permit any stream, creek, drainage ditch or culvert located upon or in the right of way adjacent to his lot, to become filled in, obstructed or damaged in any way which will prevent the normal flow and drainage of water. All grading of lots shall be accomplished in such a way so that surface water shall not be diverted or directed onto an adjoining lot. The damming of any stream or creek shall be prohibited, unless approved by the Developer and all lot owners affected thereby (which shall include all owners of lots downstream from the proposed dam).

The Builder or owner of any lot shall be required to grade so that cross-lot drainage is in conformance with the approved composite drainage plan for the subdivision with all drainage from the lot being directed to a public drainage facility in an easement or right-of-way. Where required, a minimum 15 inch diameter 20 foot metal pipe shall be used for driveway entrances. If the Developer shall for any reason be required to correct drainage defects created by the builders or homeowner, any cost associated with such correction shall be paid promptly to the Developer. Such collections, if necessary, shall be made in the small claims court of Oldham County.

No owner shall deposit or permit to be deposited any grease, oil, gasoline, detergent, pesticide, poison, or other deleterious material into any stream or creek either directly or indirectly. Streams and creeks are on private property. No creek rock shall be removed nor shall the creek be traversed without the owner's prior consent.

The owner and/or builder shall be liable for damages to the lot, other lots or roads damaged outside of said lot. After Developer has seeded and strawed the drainage swales and ditch lines, then the owner and/or builder shall not cause any obstruction of and shall maintain the drainage swales and ditch lines from the property line to the road surface (and any other drainage swales located on the property) and shall repair any damage caused by the owner or owner's invitees, guests, contractors and/or subcontractors; and comply with all Oldham County Planning and Zoning requirements, to repair or make improvements to the drainage swales and

ditch lines. If the owner and/or builder fails to maintain or repair damage to the drainage swales or remove obstructions, then the Developer or any County government agency may, at their option, cause the repairs to be made and assess the lot for the cost of the repairs plus interest at the prime rate as reported in the Wall Street Journal for commercial loans plus 5% adjusting annually until paid. This assessment shall become a lien against the property and enforceable as a maintenance lien. This lien shall be subordinate to a valid first mortgage lien on the property.

14. No commercial activity, business or commerce of any kind shall be carried on upon any lot, except for construction of improvements as permitted herein.
15. The purchaser of each lot agrees that he will not use or permit the use of said lot, nor sell any portion thereof, for a passageway leading from the road to any adjoining property outside the subdivision. Although this restriction also applies to the Developer in regards to any subdivision lots owned; Developer, however reserves the right to extend any existing right-of-way through property not a subdivision lot or where applicable, to link the roads to further subdivision development. Purchasers agree that the roads may be used for present and future construction traffic and equipment, and to provide access to any future sections, provided that such use is not prohibited by Oldham County Planning and Zoning rules, regulations, requirements or directives.

It is understood and agreed that roads were constructed by the Developer and that it, its successors or assigns, are exempt from any present or future fees for use of the roads (except any applicable tax imposed by governmental authority), and shall not be restricted from the use of the roadways in any respect.

16. Swimming pools, clothes lines, antennae and receiver/transmitters:
  - a. No above ground swimming pools (except small children's toy pools) shall be erected or placed on any lot unless its design or placement shall be approved by Developer, which approval shall be within the sole discretion of the Developer and may be arbitrarily and unreasonably withheld.
  - b. No outside clothes lines shall be erected or placed on any lot.
  - c. No antennae (except for standard small television antennae) or microwave and other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any lot unless its design or placement shall be approved by Developer, which approval shall be within the sole discretion of the Developer and may be arbitrarily and unreasonably withheld.
17. Duty to repair and rebuild:
  - a. Each owner of a lot shall, at his sole cost and expense, keep his residence under normal repair, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear



and tear.

- b. If all or any portion of a residence is damaged or destroyed by fire or other casualty, the owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence in a manner which will substantially restore it to its condition immediately prior to the casualty, or shall promptly clear the lot of all debris, and shall restore the lot as close as possible to its original condition.
18. No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash, garbage, or other waste shall be kept in sanitary containers.
19. Road Maintenance Assessment: It is anticipated that the responsibility for the maintenance of the subdivision roads will be assumed by the county upon their completion and upon the approval and acceptance by the Oldham County Fiscal Court. If for any reason this responsibility is not assumed by the county or some other governmental agency, or if after assuming such responsibility, the governmental agency relinquishes such responsibility or fails to properly carry out such responsibility, Developer, its successors or assigns, may assess a road maintenance fee for a sum not to exceed \$200.00 annually for each unimproved lot. These charges shall be prorated to the time of purchase of said lot and/or commencement of construction. The proceeds from said annual assessment shall be applied to the repair, maintenance, safety, and beautification of the subdivision roads and road rights-of-way. Proceeds from said annual assessment shall be expended as stated herein at the discretion of the Developer, its successor or assigns. Provided, however, that the Developer shall not be responsible for the payment of any such charges.

The foregoing assessments shall constitute a lien on each lot until paid, however, this lien shall be second and inferior to any valid first mortgage or vendor's lien against any lot, and the Developer hereby subordinates same.

It is understood and agreed that the aforementioned assessment will continue until the maintenance of said roads is assumed/reassumed by Oldham County or some other public authority. In the event that a public authority becomes responsible for the roads and roadways, then the monies in the road maintenance fund, unless otherwise required by law, shall be transferred to trustees or homeowner's association and may then be used as otherwise provided herein in items 20 and 21.

20. Homeowner's Association: There has been previously created the Briar Hill Estates Homeowner's Association (The "Association") for the owners of lots in Briar Hill Estates and Briar Hill Estates Section II, III, IV, V, VI, VII, & VIII. Every owner of a lot in Briar Hill Estates Section IX shall also be a member of the Association, and automatically by acceptance of a deed for any lot agrees to accept membership in, and does thereby become a member of the Association. This organization shall administer the road maintenance fund as established in item 19 and/or shall administer assessments or fees for the street lighting, watering systems, landscaping, and general beautification and

maintenance of the common areas and rights-of-way as further stated in item 21 herein. The Association shall further administer such funds for other sections of Briar Hill Estates as have been and will be established. Members shall abide by the Associations' by-laws, rules and regulations and shall pay any fees or assessments as are established. Any existing road fund or other assessment as provided for by these Restrictions may be transferred to the Association. Additionally, said Association may assess its own fees for those items as stated in items 20 and 21 herein to properly cover the necessary expenses for same. It is understood that all such assessments or fees, except as is designated strictly for the maintenance of the roads under item 19, shall be used for the landscaped entrance to the subdivision in Briar Hill Estates as well as all other rights-of-way and common areas of Briar Hill Estates, regardless of the Section. Members of the Association shall have one vote per lot as shown on the recorded plat of the subdivision, provided, however, that such vote is subject to any limitation and rules as established by the Association. In the event any lot may be owned by more than one person or entity, each such person or entity shall be entitled to a pro-rated fraction of the one vote to which each lot is entitled. It is understood however, that if only one owner casts a vote, it shall count as the full vote of the owners. Voting rights may be altered or amended by the By-Laws or when promulgated by the Association.

The object and purposes of the Association shall be to promote the general welfare and serve the common good of its members and the residents of all sections of the Briar Hill Estates Development, and may include maintenance and repair of streets, lights, watering systems, sidewalks, storm drain entrances, performance of snow removal, and the acceptance of any open space for the purposes of operation, maintenance, protection, and repair.

21. Street lighting and other common facilities: The Developer shall have the right to install and otherwise make available such common facilities and services as required by any governmental agency or which they may deem reasonable and necessary for the general health, safety, welfare or convenience of the residents and owners of Briar Hill Estates Section IX, and any further sections of Briar Hill Estates which are subsequently developed. Such common facilities shall include, but not be limited to, street lighting, entrance lighting, water systems, street signs, flowers, shrubbery and maintenance of same. The Developer, its successors or assigns, may establish such assessment as deemed necessary to cover the maintenance and use of such facilities or items placed in Briar Hill Estates Section IX and all previously developed sections of Briar Hill Estates and all sections to be developed in the future. The foregoing charges as well as any assessments listed in item 20, shall constitute a lien on each lot until paid, however, this lien shall be second and inferior to any valid first mortgage or vendor's lien against any lot, and the Developer hereby subordinates same.

All assessments or fees (including those outlined in item 20 assessed by any homeowner's association) not paid when due shall bear interest at the legal rate as provided by law.



22. Each property owner's electric utility service lines shall be underground throughout the length of the service line from Louisville Gas and Electric's point of delivery to customer's building; and title to the service lines shall remain in and the cost of installation, and maintenance thereof shall be borne by the respective lot owner upon which said service line is located.

Appropriate easements are hereby dedicated and served to each property owner, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain electric service lines to Louisville Gas and Electric's termination points. Electric service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment therein and no change in the grade election thereof shall be made by any person or lot owner without the express consent in writing of Louisville Gas and Electric Company and South Central Bell Telephone Company.

Above ground electric transformers and pedestals may be installed at appropriate points in any electric easement.

In consideration of Louisville Gas and Electric bringing service to the property shown on the plat, it is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

23. **Amendment of Restrictions:** Unless otherwise provided for herein, during the first ten years from date hereof, these restrictions may be altered or abolished by an agreement between the Developer and the owners of 51% of the total lots in the subdivision, (including those owned by the Developer), acknowledged and recorded as a Deed of Conveyance, and such alteration or abolition shall thereafter be binding upon all owners of the lots in the subdivision. After ten years, any of the restrictions may be altered or abolished by the owners of 51% of the lots in each section of the subdivision.
24. **Enforcement of Restrictions:** These restrictions may be enforced by any of the following individuals or entities: lot owner, subdivision association, taxing district for the subject property (if permitted by law), the Developer, its successors or assigns; and any lot owners of other sections of Briar Hill Estates which is a part of this common scheme or development. Failure to enforce, either promptly or otherwise, any of the restrictions or covenants contained herein or as shown on the recorded Plat, shall not be deemed a waiver of the right to enforce thereafter, and the invalidation of any of the covenants or restrictions contained herein by Judgment of any competent Court shall not affect any of the other restrictions and covenants, and they shall remain in full force and effect.

The cost of enforcing any of these restrictions, including a reasonable attorney fee, shall be awarded at the discretion of the Court, to the prevailing party.



25. *All the restrictions and provisions herein shall be deemed to be covenants running with the land and binding upon the parties hereto, their heirs, successors and assigns and to each purchaser, his heirs, successors, and assigns and shall be in full force and effect from the date of execution of same by the Developer.*
26. The Developer's right of approval as stated herein shall not terminate upon the sale of all of the lots in the subdivision, provided, however, that the Developer reserves the right to assign any and all of its rights and responsibilities herein above stated including, but not limited to, all discretionary authority associated with such rights.

Approvals and/or assignments of any rights retained by Developer herein, may be made by Robert A. Jones or Lee S. Clore for and on behalf of Owner/Developer.

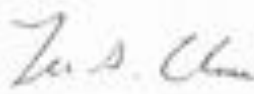
27. Builders and all construction equipment are to use the new county park road for construction traffic.
28. Invalidation of any one of these covenants by judgment or order shall not affect the validity of any other provisions herein.

IN TESTIMONY WHEREOF, witness the signatures of the party hereto, on the date and year first above written.

BRIAR HILL ESTATES, L.L.C.

BY:

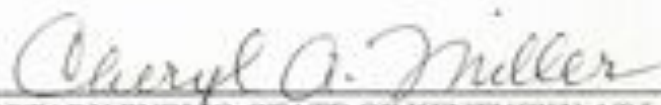
  
ROBERT A. JONES, MEMBER

  
LEE S. CLORE, MEMBER


STATE OF KENTUCKY    )  
                                  )  
COUNTY OF OLDHAM    )

The foregoing instrument was acknowledged and sworn before me by Robert A. Jones, Member and Lee S. Clore, Member of Briar Hill Estates L.L.C., a Kentucky Limited Liability Company, for and in behalf of said company, on this 7th day of August 2007.

My commission expires 3/20/2011

  
NOTARY PUBLIC, STATE OF KENTUCKY AT LARGE

Prepared By:  
Robert A. Jones  
P. O. Box 8  
Crestwood, KY 40014  
502/241-8435



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