

Brookfield

STATE OF TEXAS §

COUNTY OF TRAVIS §

NOTICE OF FILING OF DEDICATORY INSTRUMENTS

\*AMENDMENT OF RULES AND REGULATIONS

\*BYLAWS AND BYLAW AMENDMENT

\*ARTICLES OF INCORPORATION

BROOKFIELD OWNERS ASSOCIATION, INC.

<p><b>Document reference.</b> Reference is hereby made to that certain <u>Amended and Restated Declaration of Covenants, Conditions, and Restrictions – Brookfield</u>, filed under Document No. 2002096768 in the Official Public Records of Travis County, Texas (together with all amendments and supplemental documents thereto, the “<b>Declaration</b>”).</p> <p>Reference is further made to the <u>Resolutions of the Board of Directors Adopting Rules for the Brookfield Estates HOA</u>, filed 08/28/2006 under Document No. 2006166355 in the Official Public Records of Travis County, Texas (together with any amendments or supplements, the “<b>Rules</b>”).</p>
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WHEREAS the Declaration provides that owners of lots subject to the Declaration are automatically made members of Brookfield Owners Association, Inc. (the “**Association**”);

WHEREAS the Association, acting through its board of directors (the “**Board**”), is authorized to adopt and amend rules and regulations governing the property subject to the Declaration and the operations of the Association pursuant to Article 6.04 (A) of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions – Brookfield, and/or State law, and has previously adopted the Rules; and

WHEREAS the Board has voted to adopt the additional Rules attached as Exhibit A to supplement the previously adopted Rules; and

WHEREAS the Association wishes to file additional governing documents, previously-adopted, of record;

THEREFORE the additional Rules attached as Exhibit A are filed of record, to supplement the previously-adopted Rules, the previously adopted Bylaws (dated 8-1-01) and Bylaw amendment (dated 5-13-02) are hereby filed as Exhibit B, and the Articles of Incorporation and a subsequent amendment thereto are hereby filed as Exhibit C.

Subject solely to the amendments contained in Exhibit A, the Rules remain in full force and effect.

**BROOKFIELD OWNERS ASSOCIATION, INC.**

Acting by and through its Board of Directors

Signature:   
 Printed Name: Brooks Powell  
 Title: President

Exhibit A: Additional Rules  
 Exhibit B: Bylaws and Bylaw amendment

Exhibit C: Articles of Incorporation and amendment to articles

Acknowledgements

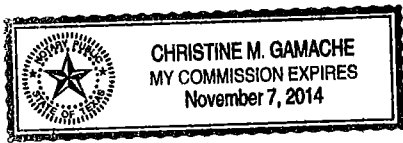
STATE OF TEXAS §

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This instrument was executed before me on the 26<sup>th</sup> day of September,  
20 13, by Brooks Rowell in the capacity stated above.

*Christine Gamache*

Notary Public, State of Texas



## EXHIBIT A – Additional Rules

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### SECTION I. FLAGS

1. **General.** An Owner may display flags only on his or her Lot and only in compliance with this Section. An Owner may not display flags on the Common Areas, or on any other lands owned or maintained by the Association, for any reason or at any time. An Owner may have one flagpole, or one residence-mounted flag mount, but not both.
  
2. **Prior Approval Required.** All flagpoles, flag mounts, and related installations (e.g., flag lighting) must be approved in advance by the Association's Architectural Committee. An Owner desiring to display a permitted flag must submit plans to the Architectural Committee for each installation, detailing the dimensions, type, location, materials, and style/appearance of the flagpole, flag mount(s), lighting and related installations. The Association's Architectural Committee shall have the sole discretion of determining whether such items and installations comply with this Section, subject to any appeal rights that may exist elsewhere in the Association's governing documents or under State law.
  
3. **Additional Requirements Related to Flags.**
  - a. Flags must be displayed on an approved flag mount or flagpole. Flags may not be displayed in any other manner.
  - b. No more than one flag at a time may be displayed on a flag mount. No more than two flags at time may be displayed on a flagpole.
  - c. Flags on flagpoles must be hoisted, flown, and lowered in a respectful manner.
  - d. Flags must never be flown upside down and must never touch the ground.
  - e. No mark, sign, insignia, design, or advertising of any kind may be added to a flag.
  - f. If both the U.S. and Texas flags are displayed on a flagpole, they must be of approximately equal size.
  - g. If the U.S. and Texas flags are flown on one pole, the U.S. flag must be the highest flag flown and the Texas flag the second highest.
  - h. Only all-weather flags may be displayed during inclement weather.
  - i. Flags must be no larger than 3'x5' in size.
  - j. Flags may not contain commercial material, advertising, or any symbol or language that may be offensive to the ordinary person.
  - k. A pennant, banner, plaque, sign or other item that contains a rendition of a flag does not qualify as a flag under this Section.

4. Materials and Appearance of Flag Mounts and Flagpoles. A flag mount attached to a dwelling or a freestanding flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials (per the discretion of the Architectural Committee) used in the construction of the mount or flagpole and harmonious with the dwelling.
5. Additional Requirements for Flagpoles. The following additional requirements shall apply to flagpoles installed on Lots:
  - a. No more than one flagpole may be installed on a Lot;
  - b. The flagpole must be free-standing and installed vertically;
  - c. The flagpole must be no greater than 20 feet in height measured from grade level;
  - d. The location and construction of the flagpole must comply with applicable zoning ordinances, may not be located in any easements (including drainage easements), and must comply with all setback requirements;
  - e. Unless otherwise approved by the Architectural Committee, the location of the pole must be within 10 feet of one of the side-most building lines of the home, and within 10 feet of the front most building line of the home. The Architectural Committee may require the pole to be installed on a particular side or otherwise require a particular location;
  - f. No trees may be removed for pole installation; and
  - g. An Owner must ensure that external halyards (hoisting ropes) used in combination with a flagpole do not create an unreasonable amount of noise.
6. Lighting of Flag Displays. Any lights installed for the purpose of illuminating a flag must be pre-approved by the Association. Such light installations must be of a reasonable size and intensity and placed in a reasonable location, for the purpose of ensuring that the lights do not unreasonably disturb or distract other individuals. All flag illumination lighting must be specifically dedicated to that purpose. No other lighting, whether located inside or outside of the residence, may be directed toward a displayed flag for purposes of illuminating the flag (e.g., security flood or spot lights may not be oriented toward a displayed flag).
7. Maintenance. An Owner is responsible for ensuring that a displayed flag, flagpole, flag mount(s), lighting and related installations are maintained in good and attractive condition at all times at the Owner's expense. Any flag, flagpole, flag mount, light, or related installation or item that is in a deteriorated or unsafe condition must be repaired, replaced, or removed promptly upon the discovery of its condition.

## **SECTION II. SOLAR ENERGY DEVICES**

1. Conflict with Other Provisions. Per state law, this Section controls over any provision in any other Association governing document to the contrary.
2. Prior Approval Required. **An Owner may install solar energy devices only on property solely owned and solely maintained by the Owner, and only in accordance with the restrictions provided herein.** Owners may not install solar energy devices except in accordance with the restrictions provided herein. Prior to installation of any solar energy device, the Owner must submit plans for the device and all appurtenances thereto to the Architectural Committee. The plans must provide an as-built rendering, and detail the location, size, materials, and color of all solar devices, and provide calculations of the estimated energy production of the proposed devices.
3. Definition. In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. All solar devices not meeting this definition are prohibited.
4. Prohibited Devices. Owners may not install solar energy devices that:

- a. threaten the public health or safety;
  - b. violate a law;
  - c. are located on property owned by the Association;
  - d. are located in an area owned in common by the members of the Association;
  - e. are located in an area on the property Owner's property other than:
    - i. on the roof of the home (or of another structure on the Owner's lot allowed under the Association's governing documents); or
    - ii. in a fenced yard or patio owned and maintained by the Owner;
  - f. are installed in a manner that voids material warranties;
  - g. are installed without prior approval by the Architectural Committee; or
  - h. substantially interfere with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. *This determination may be made at any time, and the Architectural Committee may require removal of any device in violation of this or any other requirement.*
5. Limitations on Roof-Mounted Devices. If the device is mounted on the roof of the home, it must:
- a. extend no higher than or beyond the roofline;
  - b. be located only on the back of the home – the side of the roof opposite the street. The Architectural Committee may grant a variance in accordance with state law if the alternate location is substantially more efficient<sup>1</sup>;
  - c. conform to the slope of the roof, and have all top edges parallel to the roofline; and
  - d. not have a frame, a support bracket, or visible piping or wiring that is any color other than silver, bronze, or black tone commonly available in the marketplace.
6. Limitations on Devices in a Fenced Yard or Patio. If the device is located in a fenced yard or patio, it may not be taller than the fence line.
7. Additional provisions regarding shingles. Except as otherwise authorized in writing by the AC or Board, provided that the proposed shingles otherwise comply with any other applicable requirements of the dedicatory instruments, the AC will not deny an application for shingles if the shingles are:
- a. Designed primarily to:
    - i. be wind and hail resistant;
    - ii. provide heating/cooling efficiencies greater than those provided by customary composite shingles; or
    - iii. provide solar generation capabilities; and
  - b. When installed:
    - i. resemble the shingles used or otherwise authorized for use on property in the subdivision;
    - ii. are more durable than and are of equal or superior quality to the shingles used or otherwise authorized for use on property in the subdivision; and
    - iii. match the aesthetics of the property surrounding the Owner's property.

### **SECTION III. RAIN BARRELS AND RAINWATER HARVESTING SYSTEMS**

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<sup>1</sup> If an alternate location increases the estimated annual energy production of the device more than 10 percent above the energy production of the device if located on the back of the home, the Association will authorize an alternate location in accordance with these rules and state law. It is the Owner's responsibility to determine and provide sufficient evidence to the Architectural Committee of all energy production calculations. All calculations must be performed by an industry professional.

1. Pre Approval Required. Owners may install rain barrels or rainwater harvesting systems only with pre-approval from the Association, and only in accordance with the restrictions described in this Section.
2. Prohibited Locations. Owners are prohibited from installing rain barrels or rainwater harvesting systems, **or any part thereof**, in the following locations:
  - a. on property owned by the Association;
  - b. on property owned in common by the members of the Association; or
  - c. on property between the front of the Owner's home and an adjoining or adjacent street.
3. Pre-Approval Required for All Rain Barrels or Rainwater Harvesting Systems. Prior to any installation of any rain barrel or rain harvesting system (or any part thereof), prior written permission must be received from the Architectural Committee.

Owners wishing to install such systems must submit plans showing the proposed location, color(s), material(s), shielding, dimensions of the proposed improvements, and whether any part of the proposed improvements will be visible from the street, another lot, or a common area (and if so, what part(s) will be visible). The location information must provide information as to how far (in feet and inches) the improvement(s) will be from the side, front, and back property line of the Owner's property.

4. Color and Other Appearance Restrictions. Owners are prohibited from installing rain barrels or rainwater harvesting systems that:
  - a. are of a color other than a color consistent with the color scheme of the Owner's home;
  - b. display any language or other content that is not typically displayed by such a barrel or system as it is manufactured; or
  - c. are not constructed in accordance with plans approved by the Association.
5. Additional Restrictions if Installed in Side Yard or Improvements are Visible. If any part of the improvement is installed in a side yard, or will be visible from the street, another lot, or common area, the Association may impose restrictions on the size, type, materials, and shielding of, the improvement(s) (through denial of plans or conditional approval of plans).

#### **SECTION IV. RELIGIOUS DISPLAYS**

1. General. State statute allows owners to display certain religious items in the owner's entry, and further allows the association to impose certain limitations on such entry displays. The following rule outlines the limitations on religious displays in an owner's entry area. Notwithstanding any other language in the governing documents to the contrary, residents may display on the entry door or doorframe of the resident's dwelling one or more religious items, subject to the restrictions outlined in Paragraph 2 below. Allowed religious displays are limited to displays motivated by the resident's sincere religious belief.
2. Prohibited Items. No religious item(s) displayed in an entry area may:
  - a. threaten the public health or safety;
  - b. violate a law;
  - c. contain language, graphics, or any display that is patently offensive to a passerby;
  - d. be located anywhere other than the main entry door or main entry door frame of the dwelling;
  - e. extend past the outer edge of the door frame of the door; or
  - f. have a total size (individually or in combination) of greater than 25 square inches.
3. Remedies for Violation of this Section. Per state statute, if a religious item(s) is displayed in violation of this Section, the Association may remove the offending item without prior notice.

This remedy is in addition to any other remedies the Association may have under its other governing documents or State law.

4. Seasonal Religious Holiday Decorations. This rule will not be interpreted to apply to otherwise-permitted temporary seasonal religious holiday decorations such as Christmas lighting or Christmas wreaths. The Board has the sole discretion to determine what items qualify as Seasonal Religious Holiday Decorations and may impose time limits and other restrictions on the display of such decorations. Seasonal Religious Holiday Decorations must comply with all other provisions of the governing documents, but are not subject to this Section.
5. Other displays. Non-religious displays in the entry area to an owner's dwelling and all displays (religious or otherwise) outside of the entry area to an owner's dwelling are governed by other applicable governing document provisions.

### **SECTION V. RECORD PRODUCTION**

1. Effective Date. Notwithstanding any language to the contrary and regardless of date of adoption of these rules, the effective date of this Section is January 1, 2012.
2. Conflict with Other Provisions. Per state law, this Section controls over any provision in any other Association governing document to the contrary to the extent of any conflict.
3. Request for Records. The Owner or the Owner's authorized representative requesting Association records must submit a written request by certified mail to the mailing address of the Association or authorized representative as reflected on the most current filed management certificate. The request must contain:
  - a. sufficient detail to describe the books and records requested, and
  - b. an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records.
4. Timeline for record production.
  - a. If inspection requested. If an inspection is requested, the Association will respond within 10 business days by sending written notice by mail, fax, or email of the date(s) and times during normal business hours that the inspection may occur. Any inspection will take place at a mutually-agreed time during normal business hours, and the requesting party must identify any books and records the party desires the Association to copy.
  - b. If copies requested. If copies are requested, the Association will produce the copies within 10 business days of the request.
  - c. Extension of timeline. If the Association is unable to produce the copies within 10 business days of the request, the Association will send written notice to the Owner of this by mail, fax, or email, and state a date, within 15 business days of the date of the Association's notice, that the copies or inspection will be available.
5. Format. The Association may produce documents in hard copy, electronic, or other format of its choosing.
6. Charges. Per state law, the Association may charge for time spent compiling and producing all records, and may charge for copy costs if copies are requested. Those charges will be the maximum amount then-allowed by law under the Texas Administrative Code. The Association may require advance payment of actual or estimated costs. As of July, 2011, a summary of the maximum permitted charges for common items are:
  - a. Paper copies - 10¢ per page
  - b. CD - \$1 per disc
  - c. DVD - \$3 per disc
  - d. Labor charge for requests of more than 50 pages - \$15 per hour



- e. Overhead charge for requests of more than 50 pages - 20% of the labor charge
  - f. Labor and overhead may be charged for requests for fewer than 50 pages if the records are kept in a remote location and must be retrieved from it
7. Private Information Exempted from Production. Per state law, the Association has **no obligation** to provide information of the following types:
- a. Owner violation history
  - b. Owner personal financial information
  - c. Owner contact information other than the owner's address
  - d. Information relating to an Association employee, including personnel files
8. Existing Records Only. The duty to provide documents on request applies only to existing books and records. The Association has no obligation to create a new document, prepare a summary of information, or compile and report data.

#### **SECTION VI. RECORD RETENTION**

1. Effective Date. Notwithstanding any language to the contrary and regardless of the date of adoption of these rules, the effective date of this Section relating to record retention is January 1, 2012.
2. Conflict with Other Provisions. Per state law, this Section relating to record retention controls over any provision in any other Association governing document to the contrary to the extent of any conflict.
3. Record Retention. The Association will keep the following records for at least the following time periods:
- a. Contracts with terms of at least one year; 4 years after expiration of contract
  - b. Account records of current Owners; 5 years
  - c. Minutes of Owner meetings and Board meetings; 7 years
  - d. Tax returns and audits; 7 years
  - e. Financial books and records (other than account records of current Owners); 7 years
  - f. Governing documents, including Articles of Incorporation/Certificate of Formation, Bylaws, Declaration, Rules, and all amendments; permanently
4. Other Records. Records not listed above may be maintained or discarded in the Association's sole discretion.

#### **SECTION VII. PAYMENT PLANS**

1. Effective date. Notwithstanding any language to the contrary and regardless of date of adoption of these rules, the effective date of this Section relating to payment plans is January 1, 2012.
2. Eligibility for Payment Plan.
- Standard payment plans. An Owner is eligible for a Standard Payment Plan (*see* Rule (3) below) *only if*:
- a. The Owner has not defaulted under a prior payment plan with the Association in the prior 24-month period;
  - b. The Owner requests a payment plan no later than 30 days after the Association sends notice to the Owner via certified mail, return receipt requested under Property Code §209.0064 (notifying the owner of the amount due, providing 30 days for payment, and

describing the options for curing the delinquency). Owner is responsible for confirming that the Association has received the Owner's request for a payment plan within this 30-day period. It is recommended that requests be in writing; and

- c. The Association receives the executed Standard Payment Plan and the first payment within 15 days of the Standard Payment Plan being sent via email, fax, mail, or hand delivered to the Owner.

***Other payment plans.*** An Owner who is not eligible for a Standard Payment Plan may still request that the Association's Board grant the Owner an alternate payment plan. Any such request must be directed to the person or entity currently handling the collection of the debt (i.e., the property manager or Association's attorney). The decision to grant or deny an alternate payment plan, and the terms and conditions for any such plan, will be at the sole discretion of the Association's Board.

3. **Standard Payment Plans.** The terms and conditions for a Standard Payment Plan are:
  - a. ***Term.*** Standard Payment Plans are for a term of six months (6 mos.). (See also Paragraph 6 for Board discretion involving term lengths.)
  - b. ***Payments.*** Payments will be made at least monthly and will be roughly equal in amount or have a larger initial payment (small initial payments with a large balloon payment at the end of the term are not allowed). Payments must be received by the Association at the designated address by the required dates and may not be rejected, returned or denied by the Owner's bank for any reason (i.e., check returned NSF). The association may require ACH (automated/auto debit) payments under any plan.
  - c. ***Assessments and other amounts coming due during plan.*** The Owner will keep current on all additional assessments and other charges posted to the Owner's account during the term of the payment plan, which amounts may but need not be included in calculating the payments due under the plan.
  - d. ***Additional charges.*** The Owner is responsible for reasonable charges related to negotiating, preparing and administering the payment plan, and for interest in the amount of six percent (6%), all of which shall be included in calculating the total amount due under the plan and the amount of the related payments. The Owner will not be charged late fees or other charges related to the delinquency during the time the owner is complying with all terms of a payment plan.
  - e. ***Contact information.*** The Owner will provide relevant contact information and keep same updated.
  - f. ***Additional conditions.*** The Owner will comply with such additional conditions as stated in the plan document.
  - g. ***Default.*** The Owner will be in default under the plan if the Owner fails to comply with any requirements of these rules or the payment plan agreement.
4. **Account Sent to an Attorney/Agent for Formal Collections.** An Owner does not have the right to a Standard Payment Plan after the 30-day timeframe referenced in Paragraph 2(b). Once an account is sent to an attorney or agent for collection, the delinquent Owner must communicate with that attorney or agent to arrange for payment of the debt. The decision to grant or deny the Owner an alternate payment plan, and the terms and conditions of any such plan, is solely at the discretion of the Board.

5. Default. If the Owner defaults under any payment plan, the Association may proceed with any collection activity authorized under the governing documents or state law without further notice. If the Association elects to provide notice of default, the Owner will be responsible for all fees and costs associated with the drafting and sending of such notice. All late fees and other charges that otherwise would have been posted to the Owner’s account may also be assessed to the Owner’s account in the event of a default.

Any payments received during a time an Owner is in default under any payment plan may be applied to out-of-pocket costs (including attorneys fees for administering the plan), administrative and late fees, assessments, and fines (if any), in any order determined by the Association, except that fines will not be given priority over any other amount owed but may be satisfied proportionately (e.g. a \$100 payment may be applied proportionately to all amounts owed, in proportion to the amount owed relative to other amounts owed).

6. Board Discretion. The Association’s Board may vary the obligations imposed on Owners under these rules on a case-by-case basis, including curtailing or lengthening the payment plan terms (so long as the plan is between 3 and 18 months), as it may deem appropriate and reasonable. The term length set forth in Paragraph 3 shall be the default term length absent Board action setting a different term length. No such action shall be construed as a general abandonment or waiver of these rules, nor vest rights in any other Owner to receive a payment plan at variance with the requirements set forth in these rules.
7. Legal Compliance. These payment plan rules are intended to comply with the relevant requirements established under Texas Property Code §209. In case of ambiguity, uncertainty, or conflict, these rules shall be interpreted in a manner consistent with all such legal requirements.

**SECTION VIII. VOTING**

1. Form of Proxy or Ballot. The Board may dictate the form for all proxies, ballots, or other voting instruments or vehicles. No form other than the form put forth by the Board will be accepted.
2. Deadline for Return of Voting Paperwork. The Board may establish a deadline, which may be communicated on the proxy form, absentee ballot, or otherwise communicated to the membership, for return of electronic ballots, absentee ballots, proxies, or other votes.

**SECTION IX. TRANSFER FEES**

1. Transfer Fees. In addition to fees for issuance of a resale certificate and any updates or re-issuance of the resale certificate, transfer fees are due upon the sale of any property in accordance with the then-current fee schedule, including any fee charged by the Association’s managing agent. It is the owner/seller’s responsibility to determine the then-current fees. Transfer fees not paid at or before closing are the responsibility of the purchasing owner and will be assessed to the owner’s account accordingly. The Association may require payment in advance for issuance of any resale certificate or other transfer-related documentation.

If a resale certificate is not requested and a transfer occurs, all fees associated with Association record updates related to the transfer will be the responsibility of the new owner and may be assessed to the unit’s account at the time the transfer becomes known. These fees will be set according to the then-current fee schedule of the Association or its managing agent, and may be equivalent to the resale certificate fee or in any other amount.

2. All transfer fees shall be collectible in the same manner as assessments, including lien and other assessment collection rights, to the maximum extent allowed by law. Fees may include working

capital or reserve funding fees, resale certificate fees, resale certificate update fees, rush fees, and other such fees.

**SECTION X. EMAIL ADDRESSES**

1. Email Addresses. An Owner is required to keep a current email address on file with the Association if the Owner desires to receive email communications from the Association. Failure to supply an email address to the Association or to update the address in a manner required by these rules may result in an Owner not receiving Association emails. The Association has no duty to request an updated address from an Owner, in response to returned email or otherwise. The Association may require Owners to sign up for a group email, email list serve or other such email subscription service, or to utilize an email registration vehicle of the Board's choosing, in order to receive Association emails.
  
2. Updating Email Addresses. An Owner is required to notify the Association when email addresses change. Such notice must be in writing and delivered to the Association's managing agent by fax, mail, or email. In lieu of this in the Association's discretion, if available, an Owner must update his email address through the Association's website, list server, or other vehicle as directed by the Association. Any notice of email change provided to the Association's manager must be for the sole purpose of requesting an update to the Owner's email address. For example, merely sending an email from a new email address, or including an email address in a communication sent for any other purpose other than providing notice of a new email address, does not constitute a request to change or add the Owner's email in the records of the Association.

**SECTION XI. SELF-HELP (E.G. FORCE MOW) REMEDIES**

If a violation of the deed restrictions that can be cured or partially cured by self-help (the association entering a Lot and remedying the violation, such as force-mow, debris removal, or other such action) is noted, the association's managing agent shall have the authority without further Board action, unless otherwise directed on a case-by-case basis by the Board, to pursue the self-help remedy as provided in the governing documents of the Association. Such remedy shall be pursued only after 24-hour written notice to the owner, per Declaration §6.04(E). All associated costs shall be the responsibility of the owner and collectible in the same manner as Assessments, including lien rights, per Declaration §6.04.

**SECTION XII. LANDSCAPE ALTERATIONS; XERISCAPING**

**Philosophy:** Xeriscaping means using native and adaptive plants that can grow and sustain themselves with low water requirements and tolerate heat and drought conditions. Xeriscaping does not mean zero water and zero maintenance. The Association will allow, subject to compliance with these rules, the use of drought-resistant landscaping and water conserving natural turf.

**Approval for changes, plan submittal:** Prior to initiating any change in the landscape, the homeowners must submit plans and specifications detailing the proposed installation<sup>2</sup>. The request must include a to-scale design plan, as well as details on the types of plants, the ground covers (including color and materials), weed barriers, the bordering material(s), the hardscape materials (including color), setbacks, irrigation system, and dimensions (dimensions of beds, approximate size of plants, size of any rocks, and other such details.) It is recommended but not required that plans be drawn by a licensed landscape architect to increase the chance of approval of plans without changes being required. The Architectural

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<sup>2</sup> DECLARATION §7.07

Committee (for the purposes of this rule, the “Committee”) may request additional information or changes to the plans before final approval. Installation of any proposed xeric landscape may not begin until the Committee has approved the request.

**Design requirements:** Color and texture of the planted areas and inert areas are an important design aspect. Color and texture should be seen to flow neatly from one area of the yard to another. Extensive areas of “desert” or “barren” appearance must be avoided in order to preserve the aesthetic compatibility with the neighborhood. Large areas may not be composed of a single material; for example any areas of bare mulch must be interspersed with plants. The Committee may in its discretion prohibit water features, urns, and other man-made ornamentation. The xeriscape landscaping may not alter drainage patterns on a Lot, and owners must ensure that no crushed granite or other such runoff runs into a neighboring Lot or the street.

Soils in xeriscape areas should either be altered to fit the plants, or plants selected to fit the soil. Efficient irrigations systems must be planned. Irrigation for xeriscapes zones must be different than for turf zones. Owners should select plants and zones in accordance with the amount of light, wind and moisture in the particular yard area. Organic mulches such as bark chips should be applied at least 3” deep and maintained at all times at least 2” deep. Inorganic mulches such as crushed rock should be applied at least 3” deep and maintained at all times at least 2” deep.

Any hardscape areas (e.g. areas of mulch, decomposed granite, or other such ground cover) must contain an appropriate weed barrier.

**Turf Grass:** At least 60% of the visible lawn area of the Lot must contain some form of sodded grass. The exact requirement of the turf may vary from property to property and is dependent on the specific plan submitted.

Homeowners should consider replacing any “thirsty” turf grasses in place such as St. Augustine with turf that has lower water requirements.

Artificial turf is prohibited absent a variance from the Committee, which may be granted or denied in the sole discretion of the Committee. However the Committee shall have no authority to approve artificial turf in any area between the front-most building line of a Lot and the street.

The Committee may approve artificial turf on a case-by-case basis depending on the situation of the Owner.

**Plants:** It is recommended to use plants adapted to the pH soil conditions created by the non-turf materials used. i.e., don’t use acid loving plants along with alkaline crushed limestone covering, whereas acid loving plants would do well with a ground hardwood mulch covering and native plants would do well with limestone or crushed granite. Sickly and dying plants must be promptly removed or replaced.

**Hardscapes, rock, gravel, cactus:** The Committee may prohibit or limit the size and number of hardscape items including boulders. The Committee may prohibit or limit installation of rock ground cover (including gravel, and crushed stone). The Committee may prohibit or limit installation of cacti.

**Borders:** Non-turf planted areas must be bordered with an approved bordering material to define the xeriscaped area clearly from turfed areas. Such areas must be kept maintained at all times (plants trimmed and thinned, planted areas weeded, and borders edged) to ensure an attractive appearance. No plants may encroach onto sidewalks, curbs, or streets.

**Safety:** No plant with thorns, spines, or sharp edges may be used within 6’ of a sidewalk or street.

**Maintenance:** Xeric landscapes are subject to the same requirements as other landscaping and must be maintained at all times to ensure an attractive appearance. Xeriscape designs are not intended to be “zero maintenance”; in fact they often require more effort than turf throughout the year. Plants must be trimmed, beds must be kept weed-free and borders must be edged. Leaves and other debris must be removed on a regular basis so as to maintain a neat and attractive appearance. Perennials which die back during winter must be cut back to remove dead materials during winter. This includes most ornamental grasses and other flowering perennials which go dormant to the ground in winter.

Exhibit B:

Bylaws (August, 2001)  
&  
Bylaw amendment (May, 2002)

Exhibit C:  
Articles of Incorporation (August, 2001)

Amendment to Articles of Incorporation (April, 2002)



BYLAWS  
OF  
BROOKFIELD OWNERS ASSOCIATION, INC.

ARTICLE I  
NAME AND LOCATION

The name of the corporation is Brookfield Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located at 12544 Riata Vista Circle, Second Floor, Austin, Texas 78727, but meetings of members and directors may be held at such places within the State of Texas, County of Williamson or Travis, as may be designated by the Board of Directors.

ARTICLE II  
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

Section 2.1. Articles. "Articles" shall mean the Articles of Incorporation of Brookfield Owners Association, Inc., which will be filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

Section 2.2. Assessment. "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

Section 2.3. Association. "Association" shall mean and refer to Brookfield Owners Association, Inc.

Section 2.4. Association Property. "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which is now or hereafter owned or held by the Association.

Section 2.5. Association Restrictions. "Association Restrictions" shall mean the Declaration as the same may be amended from time to time, together with the Articles, Bylaws, Committee Rules, and Association Rules from time to time in effect.

Section 2.6. Association Rules. "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

Section 2.7. Board. "Board" shall mean the Board of Directors of the Association.

Section 2.8. Bylaws. "Bylaws" shall mean the Bylaws of the Association, which may be adopted by the Board and as from time to time amended.

Section 2.9. **Declarant.** "Declarant" shall mean Continental Homes of Texas, L. P., a Texas limited partnership, and its duly authorized representatives or its successors or assigns; provided that any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

Section 2.10. **Declaration.** "Declaration" shall mean the "Declaration of Covenants, Conditions, and Restrictions - Brookfield" dated June 14, 2001 and recorded in the Official Public Records of Travis County, Texas, as the same may be amended from time to time.

Section 2.11. **Lot.** "Lot" or "Lots" shall mean any parcel or parcels of land within the Property, together with all improvements located thereon.

Section 2.12. **Manager.** "Manager" shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

Section 2.13. **Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

Section 2.14. **Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

Section 2.15. **Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any lien or liens upon any portion of the Property.

Section 2.16. **Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

Section 2.17. **Property.** "Property" shall mean and refer to that tract or parcel of land situated in Williamson County, Texas, which is more fully described in the Declaration.

### ARTICLE III PURPOSE AND POWERS OF THE ASSOCIATION

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Nonprofit Corporation Act, and does not contemplate pecuniary gain or profit to its members. The Association is formed for the sole purpose of exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association as set forth in that certain "Declaration of Covenants, Conditions and Restrictions - Brookfield," dated June 14, 2001 and recorded in the Official Public Records of Travis County, Texas, as the same may be amended from time to time (the "Declaration"). Without limiting the generality of the foregoing, the Association is organized for the following general purposes:

- (a) to assure the upkeep, maintenance, improvement and administration of the common area and facilities of the Association, if any, and all lands, improvements, security devices, and other real or personal property owned by or leased to the Association, including all sidewalks and pathways located within the "Property" (as such term is defined in the Declaration);

(b) to assure the upkeep, maintenance, improvement and administration of any additional property which may in the future be acquired by or placed under the control of the Association pursuant to the Declaration, as amended from time to time;

(c) to enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of the Property in accordance with the Bylaws of the Association and the Declaration, as amended from time to time;

(d) to promote the health, safety and welfare of the residents of the Property in accordance with the Declaration, as amended from time to time;

(e) to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association arising under the Declaration, as amended from time to time;

(f) to enforce applicable provisions of the Declaration (as amended from time to time), the Bylaws and any rules and regulations of the Association, and any other instruments for the management and control of the Property including, without limitation, the power:

(i) to fix, levy, collect and enforce payment, by any lawful means, of all charges or assessments imposed pursuant to the terms of the Declaration, as amended from time to time;

(ii) to contract for and to pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities or services to and all maintenance of the Association Property;

(iii) to employ personnel reasonably necessary for the administration and operation of the Association, and to discharge the powers and duties of the Association arising under the Declaration, as amended from time to time, including the employment of accountants and/or attorneys, if appropriate; and

(iv) to pay all office and other expenses incident to the conduct of the business of the Association, including all insurance expenses, licenses, taxes and special tax or utility assessments which are or would become a lien on any portion of the Property over which the Association has authority to exercise control;

(g) to have and to exercise any and all powers, rights and privileges, including delegation of powers as permitted by law, which the Association may now or hereafter have or exercise in accordance with the Texas Non-Profit Corporation Act including, without limitation, the power:

(i) to acquire additional real or personal property and to add to the Property pursuant to the Declaration, as amended from time to time;

(ii) to acquire (by purchase, grant or otherwise), annex and merge, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association, with the assent of two-thirds (2/3) of each class of Members present at a meeting duly called for such purpose;

(iii) to indemnify officers and directors to the fullest extent permitted by applicable law as more particularly described in the Bylaws of the Association;

(iv) to borrow money, and, with the assent of two-thirds (2/3) of each class of Members present at a meeting duly called for such purpose, mortgage, pledge, or assign any or all of its real or personal property as security for money borrowed or debts incurred in accordance with the terms and conditions of the Declaration, as amended from time to time; and

(v) to act in the capacity of principal, agent, joint venturer, partner, or otherwise.

The foregoing statement of purposes shall be construed as a statement of both purposes and powers, and the purposes and powers stated in each of the foregoing clauses shall not be limited or restricted by reference to or inference from the terms and provisions of any other such clause, but shall be broadly construed as independent purposes and powers. The Association is organized in accordance with and shall operate for nonprofit purposes pursuant to the Texas Non-Profit Corporation Act and no pecuniary gain or profit to its members is contemplated hereby.

#### ARTICLE IV MEMBERSHIP

There shall be two classes of membership for purposes of voting on any Association matter. The Class A Members shall include each owner (excluding Declarant under the Declaration) of a lot within the Property and each such owner shall have one (1) vote for each lot owned. The Class B Member shall be Declarant and Declarant shall have three (3) votes for each lot owned by Declarant. The Class B Membership shall convert to a Class A Membership upon the earlier to occur of (i) Declarant owns less than twenty-five percent (25%) of the Property, or (ii) ten (10) years from the date of the Declaration. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

#### ARTICLE V MEETING OF MEMBERS

Section 5.1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association. Thereafter, the annual meeting of the Members shall be held at such time as the Board may determine.

Section 5.2. Special Meetings. Special meetings of the Members may be called at any time by the President or the Board of Directors, or upon written request of either class of Members who are entitled to vote twenty-five percent (25%) or more of the votes of said class.

Section 5.3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) and no more than fifty (50) days before such meeting to each Member entitled to vote at the meeting, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5.4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the total votes of each class of membership shall constitute a quorum for any action, except as otherwise provided in the Articles, the Declaration, or these Bylaws. If, however, such quorum is not present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

Section 5.5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 5.6. Voting Rights. The right to cast votes, and the number of votes which may be cast, for election of Members to the Board of Directors of the Association and on all other matters to be voted upon by the Members, shall be in accordance with Article VI, Section 6.03 of the Declaration.

Section 5.7. Majority Vote; Withdrawal of Quorum. When a quorum is present at any meeting of the Members, the vote of the holders of a majority of the votes, present in person or represented by proxy, shall decide any question brought before such meeting unless the question is one upon which by express provision of a statute of the State of Texas, the Articles or these Bylaws, a different vote is required, in which case such express provision shall govern and control the deciding of such question. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members leaving less than a quorum.

#### ARTICLE VI ACTION WITHOUT MEETING

Any action required by law to be taken at any annual or special meeting of the members of the Association, or any action that may be taken at any annual or special meeting of the members of the Association, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the number of Members of the Association having the total number of votes necessary to enact the action taken, as determined under the Declaration or these Bylaws.

#### ARTICLE VII BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 7.1. Number. The affairs of the Association shall be managed by a Board of three (3) Directors until the first annual or subsequent meeting, at which time the number of members of the Board of Directors may be changed by resolution of the Directors; provided, however, the minimum number of Directors shall be three (3).

Section 7.2. Term of Office. At the first annual meeting the Members shall elect one (1) Director for a term of three (3) years, one (1) Director for a term of two (2) years, and one (1) Director for a term of one (1) year; and at each annual meeting thereafter the Members shall elect the Directors for a term of three (3) years to fill each expiring term.

Section 7.3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association entitled to cast votes pursuant to Section 5.6 of

these Bylaws. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of the Members.

Section 7.4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 7.5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting, which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

#### ARTICLE VIII NOMINATION AND ELECTION OF DIRECTORS

Section 8.1. Nomination. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or nonmembers.

Section 8.2. Election. Election to the Board shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### ARTICLE IX MEETINGS OF DIRECTORS

Section 9.1. Regular Meetings. Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day, which is not a legal holiday.

Section 9.2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 9.3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

**ARTICLE X  
LIMITATION OF DIRECTOR LIABILITY**

A Director of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a director, except to the extent otherwise expressly provided by a statute of the State of Texas. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a director of the Association existing at the time of the repeal or modification.

**ARTICLE XI  
POWERS AND DUTIES OF THE BOARD**

Section 11.1. Powers. The Board shall have power to undertake any of the following actions to the extent and only to the extent that such actions are undertaken in furtherance of the sole purposes of the Association as set forth in the Articles and the Declaration:

- (a) adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Association Rules exists;
- (c) exercise for the Association all powers, duties and authority vested in or related to this Association and not reserved to the membership by other provisions of the Association Restrictions;
- (d) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;
- (e) employ such employees as they deem necessary, and to prescribe their duties;
- (f) as more fully provided in the Declaration, to:
  - (i) fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and
  - (ii) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (g) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (h) procure and maintain adequate liability and hazard insurance on property owned by the Association;

- (i) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (j) appoint the members of the Architectural Committee as provided in the Declaration;
- (k) establish reasonable membership or transfer fees; and
- (l) exercise such other and further powers as provided in the Declaration.

Section 11.2. Duties. It shall be the duty of the Board to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by either class of Members who are entitled to cast twenty-five percent (25 %) of the votes for such class; and
- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.

## ARTICLE XII OFFICERS AND THEIR DUTIES

Section 12.1. Enumeration of Offices. The officers of this Association shall be a President and one Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

Section 12.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 12.3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for two (2) years unless he resigns sooner, or shall be removed, or otherwise disqualified to serve.

Section 12.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 12.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 12.6. Vacancies. A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.



Section 12.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 12.4.

Section 12.8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice President. The Vice President shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members. In the event no Treasurer is then serving, the President shall be empowered with the Treasurer's duties.

#### ARTICLE XIII OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a majority of the number of Directors fixed by these Bylaws, designate two or more Directors (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board.

#### ARTICLE XIV BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Association Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE XV  
ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments, which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration. If any Assessment is not paid before becoming delinquent, the Owner responsible for the payment thereof shall be required by the Board to pay interest at a rate of six percent (6%) per annum on such Assessment from the due date thereof and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot or Lots owned by such Owner, and all costs and reasonable attorney's fees of any such action shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Association Property or abandonment of his Lot or Lots. Notwithstanding any provision herein to the contrary, the Association may only levy Assessments (regular or special) to defray costs which are incurred in furtherance of the duties of the Association as set forth in the prescribed law, or set forth in the articles of these Bylaws or the Declaration.

**ARTICLE XVI  
CORPORATE SEAL**

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

**ARTICLE XVII  
AMENDMENTS**

Section 17.1. These Bylaws may be amended, at a regular or special meeting of the Members, by a majority vote of a quorum of all the Members of the Association.

Section 17.2. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XVIII  
DISSOLUTION**

The Association may be dissolved upon the written consent of not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes substantially similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such substantially similar purposes.

**ARTICLE XIX  
INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 19.1. Definitions. In this Article XIX:

(a) "Indemnitee" means (i) any present or former director, advisory director or officer of the Association; (ii) any person who, while serving in any of the capacities referred to in clause (i) hereof, served at the Association's request as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise; and (iii) any person nominated or designated by (or pursuant to authority granted by) the Board of Directors or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

(b) "Official Capacity" means (i) when used with respect to a director, the office of director of the Association, and (ii) when used with respect to a person other than a director, the elective or appointive office of the Association held by such person or the employment or agency relationship undertaken by such person on behalf of the Association, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

(c) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

**Section 19.2. Indemnification.** The Association shall indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement, and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding in which he was, is or is threatened to be named a defendant or respondent, or in which he was or is a witness without being named a defendant or respondent, by reason, in whole or in part, of his serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in Section 19.1(a), if it is determined in accordance with Section 19.4 that the Indemnitee (i) conducted himself in good faith, (ii) reasonably believed, in the case of conduct in his Official Capacity, that his conduct was in the Association's best interests and, in all other cases, that his conduct was at least not opposed to the Association's best interests, and (iii) in the case of any criminal Proceeding, had no reasonable cause to believe that his conduct was unlawful; *provided, however,* that in the event that an Indemnitee is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the Indemnitee, the indemnification (i) is limited to reasonable expenses actually incurred by the Indemnitee in connection with the Proceeding and (ii) shall not be made in respect of any Proceeding in which the Indemnitee shall have been found liable for willful or intentional misconduct in the performance of his duty to the Association. Except as provided in the immediately preceding proviso to the first sentence of this Section 19.2, no indemnification shall be made under this Section 19.2 in respect of any Proceeding in which such Indemnitee shall have been (i) found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the Indemnitee's Official Capacity, or (ii) found liable to the Association. The termination of any Proceeding by judgment, order, settlement or conviction, or on a plea of nolo contendere or its equivalent, is not of itself determinative that the Indemnitee did not meet the requirements set forth in clauses (i), (ii) or (iii) in the first sentence of this Section 19.2. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee.

**Section 19.3. Successful Defense.** Without limitation of Section 19.2 and in addition to the indemnification provided for in Section 19.2, the Association shall indemnify every Indemnitee against

reasonable expenses incurred by such person in connection with any Proceeding in which he is a witness or a named defendant or respondent because he served in any of the capacities referred to in Section 19.1(a), if such person has been wholly successful, on the merits or otherwise, in defense of the Proceeding.

**Section 19.4. Determinations.** Any indemnification under Section 19.2 (unless ordered by a court of competent jurisdiction) shall be made by the Association only upon a determination that indemnification of the Indemnitee is proper in the circumstances because he has met the applicable standard of conduct. Such determination shall be made (i) by the Board by a majority vote of a quorum consisting of directors who, at the time of such vote, are not named defendants or respondents in the Proceeding; (ii) if such a quorum cannot be obtained, then by a majority vote of all directors (in which designation directors who are named defendants or respondents in the Proceeding may participate), such committee to consist solely of two (2) or more directors who, at the time of the committee vote, are not named defendants or respondents in the Proceeding; (iii) by special legal counsel selected by the Board or a committee thereof by vote as set forth in clauses (i) or (ii) of this Section 19.4 or, if the requisite quorum of all of the directors cannot be obtained therefor and such committee cannot be established, by a majority vote of all of the directors (in which directors who are named defendants or respondents in the Proceeding may participate); or (iv) by the Members in a vote that excludes the directors who are named defendants or respondents in the Proceeding. Determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, determination as to reasonableness of expenses must be made in the manner specified in clause (iii) of the preceding sentence for the selection of special legal counsel. In the event a determination is made under this Section 19.4 that the Indemnitee has met the applicable standard of conduct as to some matters but not as to others, amounts to be indemnified may be reasonably prorated.

**Section 19.5. Advancement of Expenses.** Reasonable expenses (including court costs and attorneys' fees) incurred by an Indemnitee who was or is a witness or who is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Association at reasonable intervals in advance of the final disposition of such Proceeding, and without making any of the determinations specified in Section 19.4, after receipt by the Association of (i) a written affirmation by such Indemnitee of his good faith belief that he has met the standard of conduct necessary for indemnification by the Association under this Article XIX and (ii) a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Association if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized in this Article XIX. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. Notwithstanding any other provision of this Article XIX, the Association may pay or reimburse expenses incurred by an Indemnitee in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not named a defendant or respondent in the Proceeding.

**Section 19.6. Employee Benefit Plans.** For purposes of this Article XIX, the Association shall be deemed to have requested an Indemnitee to serve an employee benefit plan whenever the performance by him of his duties to the Association also imposes duties on or otherwise involves services by him to the plan or participants or beneficiaries of the plan. Excise taxes assessed on an Indemnitee with respect to an employee benefit plan pursuant to applicable law shall be deemed fines. Action taken or omitted by an Indemnitee with respect to an employee benefit plan in the performance of his duties for a purpose reasonably believed by him to be in the interest of the participants and

beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the Association.

**Section 19.7. Other Indemnification and Insurance.** The indemnification provided by this Article XIX shall (i) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Articles, any law, agreement or vote of Members or disinterested directors, or otherwise, or under any policy or policies of insurance purchased and maintained by the Association on behalf of any Indemnitee, both as to action in his Official Capacity and as to action in any other capacity, (ii) continue as to a person who has ceased to be in the capacity by reason of which he was an Indemnitee with respect to matters arising during the period he was in such capacity, and (iii) inure to the benefit of the heirs, executors, and administrators of such a person.

**Section 19.8. Notice.** Any indemnification of or advance of expenses to an Indemnitee in accordance with this Article shall be reported in writing to the Members with or before the notice or waiver of notice of the next meeting of the Members or with or before the next submission to the Members of a consent to action without a meeting and, in any case, within the twelve-month period immediately following the date of the indemnification or advance.

**Section 19.9. Construction.** The indemnification provided by this Article XIX shall be subject to all valid and applicable laws, including, without limitation, Article 2.02-1 of the Texas Business Association Act, and, in the event this Article XIX or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and this Article XIX shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.


**Section 19.10. Continuing Offer, Reliance, etc.** The provisions of this Article XIX (i) are for the benefit of, and may be enforced by, each Indemnitee of the Association the same as if set forth in their entirety in a written instrument duly executed and delivered by the Association and such Indemnitee, and (ii) constitute a continuing offer to all present and future Indemnitees. The Association, by its adoption of these Bylaws, (i) acknowledges and agrees that each Indemnitee of the Association has relied upon and will continue to rely upon the provisions of this Article XIX in becoming, and serving in any of the capacities referred to in Section 19.1(a) hereof, (ii) waives reliance upon, and all notices of acceptance of, such provisions by such Indemnitees, and (iii) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his right to enforce the provisions of this Article XIX in accordance with their terms by any act or failure to act on the part of the Association.

**Section 19.11. Effect of Amendment.** No amendment, modification or repeal of this Article XIX or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Association, nor the obligation of the Association to indemnify any such Indemnitees, under and in accordance with the provisions of this Article XIX as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

**ARTICLE XX  
MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Dated this 10<sup>th</sup> day of August, 2001.

  
\_\_\_\_\_  
Katrina E. Forbes, Director  
\_\_\_\_\_  
James Dorney, Director  
\_\_\_\_\_  
Bob Henson, Director

AMENDMENT TO BYLAWS  
OF  
BROOKFIELD OWNERS ASSOCIATION, INC.

Pursuant to the provisions of Section 17.1 of the Bylaws of Brookfield Owners Association, Inc. (the "Association"), the following amendment to the Bylaws of the Association has been adopted by all members of the Association entitled to vote thereon:

ARTICLE I

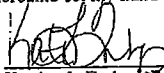
The following amendment to the Bylaws is adopted by the Board of Directors of the Association adding the following provision to Article XVII of the Bylaws:

Section 17.3. While there remains any Class B Membership in the Association, the United States Department of Housing and Urban Development and the United States Department of Veterans' Affairs shall have the right to veto any proposed amendment to the Bylaws of the Association.

The foregoing section is being added to the Bylaws in order to comply with the requirements of HUD.

The undersigned, Secretary of the Association, hereby certifies that the foregoing amendment was adopted by unanimous written consent of all members of the Association effective May 13, 2002.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of May, 2002.

  
\_\_\_\_\_  
Katrina L. Forbes, President

FILED  
In the Office of the  
Secretary of State of Texas  
AUG 21 2001  
Corporations Section

ARTICLES OF INCORPORATION  
OF  
BROOKFIELD OWNERS ASSOCIATION, INC.

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Nonprofit Corporation Act, does hereby adopt the following Articles of Incorporation for such corporation:

**ARTICLE I**  
Name

The name of the corporation is: Brookfield Owners Association, Inc. (hereinafter called the "Association").

**ARTICLE II**  
Nonprofit Corporation

The Association is a nonprofit corporation.

**ARTICLE III**  
Duration

The period of its duration is perpetual.

**ARTICLE IV**  
Purpose and Powers of the Association

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Nonprofit Corporation Act, and does not contemplate pecuniary gain or profit to its members. The Association is formed for the sole purpose of exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association as set forth in the Declaration of Covenants, Conditions, and Restrictions - Brookfield, dated June 14, 2001 and filed for record on August 7, 2001 in the Real Property Records of Travis County, Texas, as the same may be amended from time to time (the "Declaration").

**ARTICLE V**  
Registered Office; Registered Agent

The street address of the initial registered office of the Association is 12554 Riata Vista Circle, Second Floor, Austin, Texas 78727. The name of its initial registered agent at such address is Terry E. Mitchell.



**ARTICLE VI**  
**Board of Directors**


The number of directors constituting the initial Board of Directors of the Association is three (3) and the names and address of the persons who are to serve as the initial directors are:

<u>NAME</u>	<u>ADDRESS</u>
Katrina L. Forbes	12554 Riata Vista Circle Second Floor Austin, Texas 78727
James Dorney	12554 Riata Vista Circle Second Floor Austin, Texas 78727
Bob Henson	12554 Riata Vista Circle Second Floor Austin, Texas 78727

**ARTICLE VII**  
**Incorporator**

The name and street address of the incorporator is:

<u>NAME</u>	<u>ADDRESS</u>
Terry E. Mitchell	12554 Riata Vista Circle Second Floor Austin, Texas 78727

  
\_\_\_\_\_  
Terry E. Mitchell, Incorporator

ARTICLES OF AMENDMENT TO  
ARTICLES OF INCORPORATION  
OF  
BROOKFIELD OWNERS ASSOCIATION, INC.

FILED  
In the Office of the  
Secretary of State of Texas  
APR 08 2002  
Corporations Section

Pursuant to the provisions of Article 1396-4.04 of the Texas Non-Profit Corporation Act, Brookfield Owners Association, Inc. (the "Association"), acting by and through its Board of Directors, adopts the following Articles of Amendment to its Articles of Incorporation:

**ARTICLE ONE**

The name of the corporation is Brookfield Owners Association, Inc.

**ARTICLE TWO**

The following provisions are hereby added to the Articles of Incorporation of the Association:

**ARTICLE VIII  
MEMBERSHIP**

Every person or entity who is a record owner of any lot (a "Lot") which is a part of the property governed by the Declaration is entitled to membership and voting rights in the Association. Membership is appurtenant to, and inseparable from, ownership of the Lot.

**ARTICLE IX  
DISSOLUTION**

If the Association is dissolved, the assets of the Association shall be dedicated to a public body, or conveyed to a non-profit organization with a purpose similar to that of the Association.

**ARTICLE X  
AMENDMENT**

Any amendment to these Articles of Incorporation shall be approved by at least 2/3 of the number of votes entitled to be cast pursuant to Section 6.03 of the Declaration.

**ARTICLE XI  
HUD/VA APPROVAL**

Annexation of additional properties, mergers, consolidations, mortgaging of the Common Areas (as that term is defined in the Declaration) dissolution and amendment of the Articles of Incorporation of the Association, requires the prior approval of the United States Department of Housing and Urban Development and the United States Department of Veteran's Affairs so long as there remains any Class B Membership (as that term is defined in the Bylaws of the Association) in the Association.

ARTICLE THREE

The foregoing Amendments were adopted by consent in writing, signed by all members entitled to vote with respect thereto.

Brookfield Owners Association, Inc.

By: 

Katrina L. Forbes  
President

**After recording, please return to:**

Niemann & Heyer, L.L.P.  
Attorneys At Law  
Westgate Building, Suite 313  
1122 Colorado Street  
Austin, Texas 78701

Fileserver:CLIENTS:Brookfield:Rules 9-13.doc



**FILED AND RECORDED**  
**OFFICIAL PUBLIC RECORDS**

*Dana Debeauvoir*

DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

October 21 2013 03:22 PM

FEE: \$ 170.00 **2013191802**