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Subdivision Covenants and Restrictions

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BOOK

114

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COVENANTS AND RESTRICTIONS

for

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Bonnie S. Moulton
HENDRICKS COUNTY RECORDER

Section Five

Hawthorne Ridge Subdivision

1. NAME: This subdivision shall be known and designated as HAWTHORNE RIDGE, a subdivision located in Guilford Township, Hendricks County, Indiana.
2. LAND USE AND BUILDING TYPE: No lot shall be used except for single family residential purposes other than any that are designated for park or recreation. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height and a private attached garage for not less than two cars nor more than four cars, except that one Club House shall be permitted on any lot in Hawthorne Ridge designated by the developer for park or recreation. In the event the purchaser should buy two adjacent lots with purpose of building one single family dwelling across the centerline, the lot line restrictions shall not apply to the boundary lines dividing any two said lots. Exterior of dwelling shall be at least fifty (50) percent brick or stone.
3. BUILDING LINE: Front yard set back lines, and side yard set back lines on corner lots are to be shown on the plat, between which lines and the property lines of the street there shall be no buildings or structures erected or maintained. Side yard set back lines on all other lots shall be ten (10) feet.
4. UTILITY EASEMENTS AND DRAINAGE: "Utility Easements" as shown shall be reserved for the use of public utilities for the installation of water, sewer, gas, tile and for electric or telephone line, poles, ducts, pipes, etc. on, over, under and to said easement for local public use. These easements are not for the use of and shall not be used for high voltage electric transmission lines or high pressure liquid transmission pipe lines, except by written permission of the owner of the land at the time said transmission is to be constructed. "Drainage Easements" reserved as drainage swales are to be maintained by any owner such that the water from any adjacent lot shall have adequate drainage along such swale and cannot be blocked to prevent the flow of natural drainage, even if specified easement is not shown on the plat. All easements shown as "Utility Easements" are also to be considered drainage easements and are subject to all restrictions and maintenance assessments of drainage easements. No permanent, or other structures are to be erected or maintained upon any easements shown upon the plat and owners of lots shall take their titles subject to the rights of the above easement; no sump pump can be discharged into the street after a house is completed. The discharge of a sump pump must be installed underground with plastic pipe or vitrified tile to those designated areas.
5. ARCHITECTURAL CONTROL: No building or inground swimming pool shall be erected, placed, or altered on any lot until the construction plans and specifications and the complete plat plan have been approved by the Architectural Committee, as to the quality and type of material and workmanship, in harmony with the external design and with existing structure of finished grade elevation. Information concerning members and location of Architectural Committee may be obtained by contacting Lincoln Federal Savings Bank, Plainfield, IN. The ground floor of the main structure, exclusive of open porches and garages,

shall not be less than 1800 square feet for houses of one story on lots numbered 126, 127, 128, 134, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, and 151; 2000 square feet for houses of one story on lots numbered 117, 110, 119, 120, 121, 122, 123, 124, 125, 129, 130, 131, 132, 133, 135, 136, 137, and 138; and at least 1000 square feet on the first floor of houses of more than one story. (Determination of sufficiency and adequacy of the term "ground floor of main structure" with respect to dwellings of tri-level, hi-level and one-and-one-half story design shall rest exclusively with the Architectural Committee.) All lots in Section Five are suitable for basements and above the flood plain elevation.

6. **ARCHITECTURAL COMMITTEE:** The Architectural Committee shall be composed of three members appointed by the Directors of L F Service Corporation. Said committee membership shall be made known to original lot purchasers at time of sale. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event that said written approval is not received from the Committee within twenty (20) days from the date of submission, it shall be deemed that the Committee has approved the presented plan. Once L F Service Corporation has no ownership or has no interest in Hawthorne Ridge Subdivision, the Board of Directors of L F Service Corporation shall have authority to appoint its successor Architectural Committee.
7. **BUILDING LOCATION:** No building shall be located on any lot nearer to the front lot line, nor nearer to the side street lines than the minimum set back line shown on the record plat or contained in these covenants and restrictions. For the purpose of this restriction, eaves, steps, and open porches which may include a screened porch, shall not be considered a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.
8. **NUISANCES:** No noxious or offensive activity shall be carried upon any lot, nor shall anything be done which may become an annoyance or nuisance to the neighborhood. This includes but is not limited to the tearing down or rebuilding of vehicles.
9. **TEMPORARY AND OTHER STRUCTURES:** No structures of a temporary character, trailer, basement, tent, shack, garage, barn, kennel, cement slab that would serve as a basketball court, tennis court, peddle ball court or similar activity, other buildings, satellite discs larger than 18 inches in diameter and none of approved size may be decorated with pictures or words, solar panels, above ground swimming pools or radio antennas that extend more than 5 feet above the uppermost height of the roof shall be placed on any lot. For the purpose of this covenant, structures needed and used by the builders shall be allowed to remain during the building period.
10. **LIVESTOCK AND POULTRY:** No animals, livestock, or poultry of any kind shall be housed, bred, or kept on any lot except family pets, which may be kept provided they are not kept, bred or maintained for commercial purposes, and not to create or constitute a nuisance. Small animals, which are not family pets such as rabbits, may be kept as 4-H projects but must be removed within 30 days after a 4-H show.

11. **GARBAGE AND REFUSE DISPOSAL:** No lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept except in sanitary containers out of view from street except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash.
12. **WATER SUPPLY:** No individual water supply system shall be permitted on any lot.
13. **SEWAGE DISPOSAL:** No individual sewage disposal system shall be permitted upon any lot.
14. **SIGHT DISTANCE AT INTERSECTIONS:** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet and six feet above the roadways shall be placed, or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the intersection of the street line. The same sight line limitations shall apply on any lot within ten feet from the intersection of a street's property line with edge of driveway. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at such height to prevent obstruction of such sight lines.
15. **FENCES:** Fences, other than a standard silver-colored chain link no higher than 42", walls or continuous shrub planting which would in any way serve the purpose of a fence, shall not be erected until approved, in writing, by the Architectural Committee. Privacy and protection fences around a swimming pool shall be no farther than ten (10) feet out from the pool's water edge.
16. **SIDEWALKS AND PRIVATE DRIVES:** All private drives shall be paved of blacktop or concrete; sidewalks of concrete. Both must be installed according to local codes and requirements and must be completed at time of construction and before occupancy or within three years from date of purchase whichever occurs first. Sidewalks must be poured so that they slope toward the curb and at an elevation of 4" above curb level. No sidewalk is to be poured on fill dirt until proper compacting is done and settling is complete. Sidewalks at property lines are to meet flush with no steps from one elevation to another. Compliance is an obligation of the purchaser.
17. **STORAGE TANKS:** Oil, gas, or gasoline storage tanks shall either be buried or located within the house or garage area so that they are completely concealed from outside view.
18. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot, except for one sign of not more than five square feet, advertising the property for sale or for rent, or signs used by a builder to advertise the property during construction and sales period.
19. **VEHICLE REGULATIONS:** No vehicle of more than 3/4 ton hauling capacity shall be parked on any homestead except while making a delivery or pickup. No car, truck, or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any homestead unless kept within a garage. No boat, trailer, or motorhome shall be permitted to remain on any homestead for more than five days unless kept within a garage.

20. **VIOLATIONS:** Enforcement shall be by proceedings at law by said Developer or Land Owner or Homeowners Association or their assignee or in equity against any person(s), partnership(s) or corporation(s) violating or attempting to violate any covenants either to restrain the violation or to recover damages. These restrictions shall inure to and be enforceable on any single family dwelling unit or common area surrounding thereof in this addition and any judgment for costs on account of legal action brought to enforce said restrictions, or any of them, shall carry with it attorney's fees for plaintiff's attorney, including but not limited to all trial fees and appeal fees, which shall attach to and be a lien upon any real estate owned by the defendant in this addition.
21. **PROTECTIVE COVENANTS:** The Protective Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless changed by a vote of the majority of the then owners of the building sites covered by these covenants in whole or in part. Invalidity of any one of the covenants, by judgment or court order, will in no way affect the other covenants which shall remain in full force and effect.
22. **MAIL BOXES:** As long as a mail box is required to be installed at a street location for Postal delivery, said mail box must be supported and mounted on 4" x 4" wood material, preferably of a treated variety. Any exception, such as a decorative enclosure or support, must be approved in writing by the Architectural Committee.
23. **GAZEBOS:** Free standing gazebos are permitted if design and location is approved by the Architectural Committee.
24. **COVENANTS FOR MAINTENANCE ASSESSMENTS:**
- A. **Creation of the Lien and Personal Obligation of Assessments.** The Developer, being the owner of Hawthorne Ridge Subdivision, hereby covenants, and each subsequent owner by acceptance of a deed of conveyance, shall be deemed to covenant and agree to pay to the Hawthorne Ridge Homeowners Association hereafter referred to as the Association: (1) Annual assessments or charges; (2) Special assessments for common area improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The lien date shall be the annual assessment due date as set forth in Paragraph G.
- B. **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Hawthorne Ridge Subdivision and in particular for the improvement and maintenance of properties, service, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties situated upon the development including, but not limited to, the payment of taxes and insurance thereof and repair, replacement, maintenance, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

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C. Basis and Amount of Annual Assessments. The original assessment pursuant to the By-Laws of Hawthorne Ridge Subdivision shall be in amount of \$75.00 per each lot sold by the Developer, its representative or assigns, by land contract or deed an assessment shall be distributed evenly against each lot. All such assessments shall be paid to the Treasurer of the Hawthorne Ridge Homeowners Association. In no event shall any assessment or charge or special assessment as provided below be levied against or be due from developer for any lots owned by it or otherwise.

D. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section C hereof, the Association may levy in any assessment year on each lot sold by the Developer, its representatives or assigns, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of common area improvements, including the necessary fixture and personal property related thereto, provided any such assessment shall have the affirmative of two-thirds (2/3) of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

E. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section C hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section C hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section C hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

F. Quorum for Any Action Authorized under Section D and E. The quorum required for any action authorized by Sections D and E hereof shall be as follows: At the first meeting called as provided in Sections D and E hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the entire requirement as set forth in Sections D and E, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

G. Date of Commencement of Annual Assessments. Due Dates. The annual assessments, provided for herein, shall commence on the first day of April, 1987. The assessment for each succeeding year shall become due and payable on the first day of April of each year. No adjustments or prorations of assessments shall be made by the Association. For purposes of levying the assessments,

assessments shall be considered as paid in advance and shall be levied against any lot which is subject to these Restrictions. The due date of any special assessment under Section D hereof shall be fixed in the Resolution authorizing such assessment.

H. Duties of the Board of Directors. The management, affairs and policies of the Association shall be vested in the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto at least thirty (30) days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association. Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

I. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section G hereof), then the assessments and costs of collection hereof as hereinafter provided, shall thereupon become a continuing lien of the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid thirty (30) days after the delinquency date, a penalty fee not to exceed \$10.00 shall be added thereto and from the date interest at a rate of twelve percent (12%) per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the property. There shall be added to such assessment, delinquent fee and interest, the cost of preparing and filing a Complaint in such action; and in all events, the judgment shall include interest on the total amount above as provided together with reasonable attorney fees, to be fixed by the court, together with all costs of any legal action incurred which includes all costs and attorney fees for appeals.

J. Subordination of the Lien to Mortgages. The lien of the assessments provided for therein shall be subordinated to the lien of any mortgage or mortgages now or hereinafter placed upon the properties subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, not from the lien or any such subsequent assessment.

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K. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein; (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to the public use; (b) all Common Properties of the development; (c) all properties exempted from taxation by the laws of the State of Indiana upon the terms and to the extent of such legal exemption; (d) all properties owned by the Developer, its successor and assigns, and held by them or any of them for sale or resale, including any lots which may have been reacquired by the Developer.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges and liens.

- 25. The Hawthorne Ridge Homeowners Association, Inc. is a not-for-profit corporation with mandatory membership and will have enforceability powers for the restrictive covenants set for the filing and collection of liens.

This instrument prepared by Edward E. Whalen, President, L F Service Corporation.

In witness whereof, the undersigned have set their hands and signatures this 26th day of April, 1988.

L F SERVICE CORPORATION

Edward E. Whalen
EDWARD E. WHALEN, PRESIDENT

Melba S. Hanlon
MELBA S. HANLON, SECRETARY

STATE OF INDIANA, HENDRICKS COUNTY SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 26th day of April, 1988, personally appeared L F SERVICE CORPORATION by Edward E. Whalen, it's President and Melba S. Hanlon, it's Secretary and acknowledged the execution of the foregoing COVENANTS AND RESTRICTIONS for Section Five, Hawthorne Ridge Subdivision.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Pamela A. Bloomer
Pamela A. Bloomer, Notary Public
Residing in Hendricks County, Indiana

My commission expires:

1/13/92

This instrument prepared by Edward E. Whalen.

