

COVENANTS WALNUT HILL HOMEOWNERS ASSOCIATION, INC.

The undersigned, George T. Huckaby, as authorized agent for the Partnership of Hart, Von Spreckelsen and Huckaby, owners of the real estate shown and described on the plat hereon do hereby this indenture, restrict and covenant the lots and other area within the boundaries in said subdivision themselves and their grantees, assigns, successors, heirs, or legal representatives, and to any persons, corporation, banks and associations and or anyone who may obtain title to said lots as to the following terms, stipulations, conditions, restrictions, and covenants, to-wit:

- (1) Building Line: Front yard set back lines, and side yard set back lines on corner lots are to be as shown on the plat, between buildings or structures erected or maintained.
- (2) Sewer, Utility and Drainage Easements: "Sewer easements" as shown hereon are reserved for the installation and maintenance of sanitary sewers. "Utility easements" as shown hereon shall be reserved for the use of public utilities for the installation of water, sewer, gas, tile and or electric lines, poles, ducts, pipes, etc. on, over, under and to said easements 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 line, except by written permission of the owner of the land at the time said transmission line is to be constructed. "Drainage easement" as shown hereon are reserved for the construction and maintenance of drainage swales and storm sewer pipes. Said drainage swales are to be maintained by any owner such that water from any adjacent lot shall have adequate drainage along such swale. All easements shown as "utility easements" are also to be considered drainage easements and are subject to all restrictions 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 described easements.
- (3) Land Use and Building Types: No lot shall be used except for residential purposes, nor shall any lot be subdivided. 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 heights and a private attached garage for not more than four cars. In the event the purchaser should buy two lots with the purpose of building one single family dwelling across the center lot line, the lot line restrictions shall not apply to the boundary lines dividing any two said lots.

- (4) Architectural Control: No building shall be erected, placed or altered on any lot until the construction plans and specifications and the complete plot plan have been approved by the architectural committee, as to the quality and type of material and workmanship, in harmony with external design and with existing structures of finished grade elevations. The ground floor of the main structure, exclusive of open porches and garages, shall not be less than 1200 square feet, or at least 800 feet on the first floor of house of more than one story. (Determination of sufficiency and adequacy of the term "ground floor of main structure" with respect to dwellings of a tri-level, bi-level, and one and one-half story design shall rest exclusively with the architectural committee.)

All drainage conduits or tubes for individual lot driveways shall be subject to approval as to size, materials, and quality of construction by the project engineer.

- (5) 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 recorded plat for the purpose of this covenant, eaves, steps and open porches shall not be considered a part of the building, provided, however, that this shall not be constructed to permit any portion of a building on a lot to encroach upon another lot. After the building has been staked and before construction begins, the project engineer must confirm the location of building with the plot plan.
- (6) No Swimming Pool or Associated Structure: shall be erected or placed on any lot until the construction plans, including a plot plan, have been approved by the architectural committee.
- (7) Nuisances: No noxious or offensive activity shall be carried upon any lot, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood.
- (8) Temporary Structures: No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot as a residence, or for any other purpose either temporarily or permanently. For the purpose of this covenant, structures needed and used by the builders shall be allowed to remain during the building period.
- (9) Livestock and Poultry: No animals, livestock, or poultry of any kind shall be raised, 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.
- (10) 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. All incinerators, or other equipment for disposal or storage of such materials shall be kept clean and sanitary and shall not be used so as to create an offensive sight or odor.

- (11) Water Supply: No individual water supply system shall be permitted on any lot, unless such system is designed, located and constructed and equipped in accordance with the standard recommendations of all necessary governmental regulating authorities and agencies having jurisdiction thereof. Approval of such systems, installed, shall be obtained from such authorities.
- (12) Sewage Disposal: No individual sewage disposal system shall be permitted upon any lot, unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of all necessary governmental regulatory agencies and authorities having jurisdiction thereof. Approval of such system, installed, shall be obtained from such authorities.
- (13) Sight Distance of Intersection: 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 or in the case of a property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten feet from the intersection of a street property line with edge of a driveway. No trees shall be permitted to remain within such distance of such intersection unless the foliage is maintained at such height to prevent obstruction of such sight lines.
- (14) Fences: Ornamental fences of continuous shrub plantings which would in any way, serve the purpose of a fence shall not be erected until approved by the architectural committee.
- (15) Storage Tanks: Oil or gas storage tanks shall be either be buried or located within the house or garage area so that they are completely concealed from outside view.
- (16) Signs: No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and sales period.
- (17) Architectural Committee: The architectural control committee shall be composed of (contact a board member). At all times the said developers and or its assigns shall have the majority vote of said committee. The said developer shall further have the right to designate a representative to act for and on its behalf. The written approval is not received from the committee within 14 days from the date of submissions, it shall be deemed that the committee has disapproved the presented plans.

- (18) Violations: The violation of any restriction, as herein enumerated, shall give the developer or its successors, any and all rights for injunction, damage, or other action at law or equity which it and its assigns may have to restrain and prohibit the same, in keeping with the restrictions herein set out.
- (19) Protective Covenants: The "Protective Covenants" are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 1999, at which time said covenants shall be automatically extended for successive periods of 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. Invalidation 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.

Witness by hand and seal, this 23<sup>rd</sup> day of August, 1976

George T. Huckaby – Hart, Von Spreckelsen, and Huckaby



**DECLARATION OF AMENDMENT TO  
RESTRICTIVE COVENANTS TO WALNUT HILL SECTIONS 1-8**

WHEREAS, the Developer and Declarants of the original covenants of Walnut Hill Sections 1-8, more particularly described below, did desire to develop a subdivision with restrictive covenants in order to enhance the value and attractiveness of the real property contained therein.

WHEREAS, the Developer deeded certain areas as common areas to the Walnut Hill Homeowners' Association in order to benefit the entire Walnut Hill development.

WHEREAS, the Developer failed to provide in the original Covenants mechanism by which the common areas would be maintained.

WHEREAS, it is to the benefit of all the lots of Walnut Hill Sections 1-8, that the common area be maintained in a manner so as to enhance the value of the real estate.

WHEREAS, the Walnut Hill Homeowners' Association has been unable to maintain the common areas in a suitable manner as to enhance the value of all property of Walnut Hill Sections 1-8.

NOW, THEREFORE, in consideration of all the above, the undersigned declarants in order to preserve the value of the Walnut Hill Sections 1-8 do hereby adopt the following Amendments:

THE DECLARANTS, being the undersigned property owners of Walnut Hill, a subdivision located in Hendricks County Indiana, Section 1, recorded September 25, 1974 in Plat Book 9, Page 19 in the office of the Recorder of Hendricks County, Indiana; Section 2, recorded September 25, 1974 in Plat Book 9, Page 20 and replatted January 19, 1976 in Plat Book 9, page 53 for lots 32-37 in Section 2 in the office of the Recorder of Hendricks County, Indiana; Section 3, recorded June 1, 1976 in Plat Book 9, Page 62, in the office of the Recorder of Hendricks County, Indiana; Section 4 recorded August 26, 1976 in Plat Book 9, page 66 in the office of the Recorder of Hendricks County, Indiana; Section 5 recorded July 31, 1978 in Plat Book 10, page 3 in the office of the Recorder of Hendricks County, Indiana; Section 6 recorded January 27, 1977 in Plat Book 9, page 75 in the office of the Recorder of Hendricks County, Indiana; Section 7 recorded October 15, 1977 in Plat Book 9, page 96 in the office of the Recorder of Hendricks County, Indiana; and Section 8 recorded July 31, 1978 in Plat Book 10, page 4 in the office of the Recorder of Hendricks County, Indiana, whose signatures are attached hereto, desire to provide for the preservation and enhancement of the property values, amenities, and opportunities of said community and to contribute to the personal and general health, safety, and welfare of the residents and for the maintenance of the land and improvements thereon, and to this end desire to subject the real property described above to these amendments to the Restrictive Covenants recorded simultaneously on the plat for each Section described hereinabove;

NOW THEREFORE, the Declarants hereby covenant that all the following Amendments shall be binding on each owner of property of Walnut Hill, Sections 1-8, but in the event a court of competent jurisdiction shall determine that only the lots of the undersigned are bound by this Declaration, then this Declaration of Amendment shall not be void as to the lots owned by the undersigned lot owners

1. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant hereby covenant that each owner by acceptance of a deed of conveyance, shall be deemed to covenant and agree to pay the Walnut Hill Homeowners' Association hereafter referred to as the "Association"; (1) Annual assessment 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 7.

2. **Purposes of Assessments.** The assessments levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the residents in the Walnut Hill Subdivision and in particular for the improvement and maintenance of properties, services, 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 addition thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The annual assessment is separate from any swimming pool fee which may be established by the Board of Directors of the Association. Said pool fee shall only be charged to owners or persons who use the pool.

3. **Basis and Amount of Annual Assessments.** The original assessment shall be in accordance with the By-Laws of Walnut Hill Subdivision. All such assessments shall be paid to the Treasurer of the Walnut Hill Homeowners Association.

4. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Paragraph 3 hereof, the Association, in accordance with its By-Laws, may levy in any assessment year on each lot, 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 two-thirds (2/3) vote of the voting members who are voting in person or by proxy at a meeting duly called for this purpose. All the homeowners shall be provided with notice of said meeting at least thirty (30) days prior to such meeting. Any such notice given to the lot owner shall include a statement that a consideration for special assessments is being voted upon at that meeting. No lot owner shall pay a special assessment in any amount to exceed one percent (1%) of the total cost of the special assessment.

5. **Quorum for Any Action Authorized under Section 4 and 5.** The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows: At the first meeting called as provided in Sections 4 and 5 hereof, the presence at the meeting of Members or of proxies entitled to cast ten percent (10%) 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 notice requirement as set forth in Sections 4 and 5 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.

6. **Date of Commencement of Annual Assessments. Due Dates.** The Annual assessments, provided for herein, shall commence on the first day of March, 1994. The Assessment for each succeeding year shall become due and payable on the first day of March of each

succeeding year. No adjustments or prorations of assessments shall be made by the Association for one year thereafter. For the purposes of levying the assessment, 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 4 hereof shall be fixed in the resolution authorizing such assessment.

**7. 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 owners 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 herein stated to have been paid.

**8. 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 7 hereof), then the assessments and costs of collection thereof as hereinafter provided, shall thereupon become a continuing lien on 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 Ten Dollars (\$10.00) shall be added thereto and from the date interest at the 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, 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.

**9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate 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 any 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, nor from the lien or any such subsequent assessment.

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

**11. Membership in Homeowners' Association.** Walnut Hill Homeowners Association, Inc. shall be a not-for-profit corporation

