



89-58836



DECLARATION OF COVENANTS AND RESTRICTIONS  
Cherry Lake Section 1-9

This Declaration made this 20TH day of JUNE 1 1989 by Cherry Lake Development Corp.

WITNESSETH,

WIIEREAS, the following facts are true,

- A. Declarant is the sole owner of the fee simple title to the real estate located in Marion County, Indiana, more particularly described on Exhibit A attached hereto and incorporated herein by this reference, upon which Declarant may, but is not obligated to, construct residential facilities.
- B. Declarant desires to provide for the preservation and enhancement of the property values in Cherry Lake, and to this end desires to subject the Property to the covenants, restrictions and easements set forth herein, each and all of which is and are for the benefit and compliment of the lands in the Property and the future owners thereof.

NOW, THEREFORE, Declarant hereby declares that all of the lands in the Property as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following restrictions, all of which are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole, All of the restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Property or any part or parts thereof subject to such Restrictions, and shall injure to the benefit of the Declarant and every one of the Declarant's successors in title to the Property or any part or parts thereof.

- 1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:
  - a. "D.M.D" means the Department of Metropolitan Development of Marion County, Indiana, its successors or assigns of any or all of its rights under this Declaration.
  - b. "Declarant" means Cherry Lake Development Corp, the owner of the Property at the time of the recording of this Declaration, its successors and assigns in its interest, or any person designated by it in a recorded instrument as having its rights hereunder, other than persons purchasing the Property or parts thereof by deed from Declarant (unless the conveyance indicated an intent that the grantee assume the rights and obligations of the Declarant).
  - c. "Cherry Lake" means the name of the Declarant's development of which the Property is a part thereof.
  - d. "Owner" means every person or persons or entity or entities who is the record owner of a fee or undivided fee interest in the Property, their heirs, successors, legal representatives or assignee.
  - e. "Property" means the real estate described on sheet 1 of 2.

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- f. "Restrictions" means the covenants, conditions, easements and restrictions and all other provisions set forth in this Declaration, as the same may from time to time be amended.
2. Declaration. Declarant hereby expressly declares that the Property be held, transferred, sold, conveyed and occupied subject to the Restrictions.
3. Utility easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the Property, to be perpetual hereof, from the date of this instrument by the Declarant, its successors and assignees, full right and authority to lay, operate and maintain such drainage, electrical lines, communications lines (which shall include cable TV), and such other further public service facilities as Declarant may deem necessary. Provided, however, Declarant shall restore the disturbed areas as nearly as possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.
4. Plans, Specification and Locations of Buildings. No building or structure of any kind, including but not in limitation thereof, additions, alterations, fences, screens, walls, mini-barns, outbuildings, above-ground and ground surface swimming pools and decks, patios, dog runs or dog houses shall be erected or altered on the Property until the plans and specifications, location and three plot plans thereof, in detail and to scale, shall have been submitted to and approved by Declarant in writing before any construction has begun. The plans and specifications of and location of all construction shall be in compliance with the building, plumbing and electrical requirements of all applicable regulatory codes. Refusal of approval of plans and specifications, location and plot plan by Declarant may be based on any ground including purely aesthetic grounds, in the sole and absolute discretion of Declarant. Declarant shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

The plans and specifications submitted to Declarant shall contain a plot plan to scale with adequate provision for landscaping, including the planting of trees and shrubs. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of Declarant. The required landscaping and all parking strips and driveways shall be completed at the time of completion of the building, or as soon as weather and season permit. Approval of plans shall be designated on two site plans and returned to the builder for purposes of obtaining an Improvement Location Permit from D.M.D

All areas not covered by buildings, structures, paved parking facilities or sidewalks shall be maintained as landscaped areas and shall be maintained in tile pavement edge of any abutting streets.

5. Use and Size Restrictions. No use shall be permitted on the Property other than the uses permitted in the D-3 (Dwellings District) Zoning Ordinance of Marion County, Indiana. No one-story house shall be erected on any lot in this addition having a main floor area of less than nine hundred (900) square feet with one or two-car attached garage and paved drive, and no residence with more than one story shall have a main floor area of less than six hundred sixty (660) square feet with a one or two-car attached garage and paved drive. Open porches, patios, garage and basements shall be excluded in the computation of main floor area.
6. Signs. No billboards or advertising signs of any character shall be exhibited in any way or above the Property or any part hereof or on any improvement thereon without the written approval of Declarant except one professional sign not more than one (1) square foot, or one sign of not more than six (6) square feet advertising the parcel for sale or rent.

7. Setback Lines. Front building setback lines are hereby established on this plat. No building shall be erected or maintained between the established setback lines and the property lines of the street.

No residence or attached accessory building shall be erected closer to the side of any lot than six (6) feet, with a total aggregate of sixteen (16) feet at the building line, whichever is the lesser, except fences, no shall any residence or attached accessory building be erected closer than twenty (20) feet to the rear yard line. In the event a building is erected on more than one single lot, this restriction shall apply to the side lines of the extreme boundary of the multiple lots.

8. Utility Lines and Antennas. All electrical service, telephone and other utility lines shall be placed underground, but this restriction may be waived in writing by Declarant. No outside antennas, poles, mast, solar panels or towers shall be permitted unless approved in writing by Declarant, and in no event shall such structures extend more than five (5) feet above the highest point of the roof.
9. Accessory or Temporary Buildings. No trailers or tents and no accessory or temporary buildings or structures shall be permitted upon any lot within the Property excepting temporary mobile structures and parking for construction and marketing purposes.
10. Oil and Gas Tanks; Air Conditioners. All oil tanks and bottled gas tanks must be underground or placed in walled-in areas so that they shall not be visible from any street or adjacent properties.
11. Maintenance of Premises. In order to maintain the standards of the Property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any land, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall warrant the Declaration or D.M.D. to cut weeds or clear the refuse from the land at the expense of the Owner, and there shall be a lien against the said land for the expense thereof.
12. Nuisances. No nuisance shall be permitted to exist or operate upon the property.
13. Site Visibility. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street 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 points twenty-five (25) feet from the intersection of said street lines, or in the case of rounded property corner, from the intersection of the street lines extended. The same sight limitations shall apply to any lot within ten (10) feet from the intersection of the street line with the edge of a driveway pavement or alley lines. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
14. Lot Access. All lots shall be accessed from the interior streets of this subdivision. No direct lot access is permitted from 30th street.
15. Boats, Trucks, Etc. No boats, campers, trailers of any kind, recreational vehicles or commercial vehicles of any kind shall be permitted to park on the Property for more than eight (8) hours unless fully enclosed inside a building.
16. Trash and Garbage Containers. All trash and garbage containers must be placed in walled-in areas so that they shall not be visible from the street or adjacent lots except on days of collection.
17. Clothes Drying Area. No outdoor clothes drying area or apparatus shall be allowed unless screened from view of public streets and adjoining property owners.

18. Animals. No farm animals, fowl or domestic animals for commercial purposes shall be permitted on the Property. General recognized house pets are permitted in reasonable numbers. All pets when outside must be kept under control by their owners and must not become a nuisance to other residents.
19. Drainage. It shall be the duty of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the grading and drainage plan as approved for this plat by the Department of Public Works of the City of Indianapolis and the requirements of all drainage permits issued for any lot or parcel of land within this plat.
20. Enforcement. Any owner or Declarant shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions or covenants imposed by this Declaration, but Declarant shall not be liable for damages of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any person to enforce any of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppels of the person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In the event the Declarant or D.M.D. shall deem it necessary to enforce any Restrictions, the Owner shall pay reasonable attorneys' fees and court cost if Declarant shall prevail in said litigation.
21. Duration. The foregoing covenants and restrictions and any amendments thereto are for the mutual benefit and protection of all present and future Owners of the Property or any part thereof and shall run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2004, at which time the said covenants and restrictions shall be automatically extended for successive period of ten (10) years unless changes in whole or in part by majority vote of those persons who are the Owners
22. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every other one of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or shall lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other of the restrictions.
23. The Declarant, his successors and assigns, reserves the right to amend any of the above contained restrictions so long as Declarant owns fee simple title to more than six of the lots encumbered by the restrictions herein. Any such amendment shall be effective upon the execution of same by Declarant herein and the filing of the same among the public records of Marion County, Indiana.  
  
Amendments by lot owners after ninety per cent (90%) of the lots have homes erected thereon shall be authorized only by the Plats Committee of the Department of Metropolitan Development in public hearing with personal notice by First class Mail to each lot owner as shown in the bound volumes of lot owners in the Warren Township Assessor's Office at least twenty-five (25) days prior to public hearing.
24. Streets. The streets not heretofore dedicated are hereby dedicated to the public as shown upon the plats of the property.



**Cherry Lake Homeowners Association  
Administrative Resolution # 1  
Collection Policy**

WHEREAS, **Article VII, Section 1-a** of the By-Laws of the Cherry Lake Homeowners Association grants power to the Board of Directors to conduct Association business, and **Article VII, Section 1-e** of the By-Laws grants the authority to levy assessments against owners. Moreover, because the Associations' economic well-being relies on the timely payment of assessments and other allowable charges. And because it is the Board's duty to use its best efforts to collect funds owed to the Association,

LET IT BE RESOLVED THAT these collection procedures shall be followed:

- 1. AMOUNTS PAYABLE TO THE ASSOCIATION** include, but are not limited to, regular assessments, special assessments, rules enforcement fees, legal fees and other costs associated with collection of funds on behalf of the Association.
- 2. PAYMENT SCHEDULE.** The annual assessment is payable in advance by **30<sup>th</sup> of April** of each year. Fees not received or postmarked by the **30<sup>th</sup> of April** will be considered past due.
- 3. LATE FEES, NSF & INTEREST CHARGES.**
  - A late fee of 10% shall be charged monthly on all delinquent balances.
  - A \$25.00 NSF (Non-Sufficient Funds) charge will apply to any returned check.
  - Any balance older than 30 days will incur an interest charge of 12% per annum (\$.03/day) until paid.
- 4. ORDER OF CREDITING PAYMENTS.** Payments received shall be first applied to assessments owed, then to late charges, interest, or collection expenses.
- 5. PROCESS FOR DELINQUENCY NOTIFICATION.** For all balances exceeding \$40.00 that are thirty (30) past due, the following notification process applies:
  - **FIRST NOTICE.** First Notice of Past Due Charges including detail of assessments, late fees, NSF charges, interest and other charges that apply will be sent by First Class Mail to an owner whose balance is thirty (30) days past due.
  - **SECOND NOTICE.** Second Notice of Past Due Charges including detail of assessments, late fees, NSF charges, interest and other charges that apply will be sent by First Class Mail to an owner whose balance is sixty (60) days past due.
  - **10-DAY DEMAND.** 10 Day Demand for Payment including detail of assessments, late fees, NSF charges and interest charges that apply will be sent by First Class Mail to an owner whose balance is seventy five (75) days past due. This Notice will recite intent to turn the matter over to an attorney for collection enforcement if balance is not paid within 10 days. Attorney actions include but not limited to filing a lien against the owner's property, a personal judgment against the owner and property foreclosure.
- 6. LEGAL SERVICES.** If a delinquent account is referred to an attorney for collection, the owner shall be charged the Association's reasonable attorney fees and related costs.
- 7. OTHER CHARGES.** The Association may charge the owner for:
  - Owner bankruptcy,
  - Foreclosure action or deed in lieu of foreclosure,
  - Notification, filing and satisfying liens,
  - Enforcement of the Association's Rules, Bylaws, Declaration or Policies,
  - Costs of litigation

Recorded in the Book of Minutes: April 16, 2003

Date: April 16, 2003



Skip Donnell  
President, Cherry Lake Homeowners Association Board of Directors