

16931
APPLE CREEK, SECTION 1
RESTRICTIVE COVENANTS

Apple Creek Development, Inc., hereinafter "Developer", by this indenture and by those restrictive covenants contained in the Plat recorded in Plat Book No. PC 2 at Page No. 5L 180 in the Office of the Recorder of Hendricks County, Indiana, restricts and covenants the lots and other areas within the boundary of Apple Creek, Section 1 to itself and its grantees, assigns, successors, legal representatives, and to any person, persons, corporations, banks, and associations and/or anyone who may acquire title to any of said lots or other areas, as to the following terms, stipulations, restrictions and covenants which shall apply in their entirety to all of said subdivision. While the lots situated within Apple Creek, Section 1 consist of lots numbered from 1 through 12, 46 and from 84 through 123, it is the Developer's express intent that the terms and conditions of these RESTRICTIVE COVENANTS will be adopted to pertain to the lots in Apple Creek Sections 2 and 3.

5L 180
 PG 2
 5L 181
 PC 2

1. DEFINITIONS:

"Developer" shall mean Apple Creek Development, Inc. or their Grantees, successors or assigns.

"Development" shall mean the entire parcel of real estate constituting APPLE CREEK, SECTION 1.

"Subdivision" shall mean the entire APPLE CREEK subdivision as preliminarily approved by the Hendricks County Plan Commission and constituting 123 lots intended to be sold as home sites, certain streets and areas dedicated to public use, and Two (2) "common areas".

"Property Owner" shall mean the person, persons or party, other than a Builder who has acquired title for the purpose of improvement and resale, who has acquired legal, recorded title to any lot within the Development.

"Builder" shall mean any person or entity who or which acquired title to one or more lots within the subdivision for the purpose of improvement and resale.

"Association" shall mean the Apple Creek Property Owners Association, Inc., an Indiana not-for-profit corporation, created by the Developer on July 11, 1994.

"Committee" shall mean the Standards and Architectural Control Committee as appointed by the Board of Directors of the Association.

"Board" shall mean the Board of Directors of the Association as elected by the Property Owners except that the Developer reserves the right to appoint the entire Board until 115 lots within the Subdivision have been sold to consumers.

"Common Areas", as used herein shall mean the areas designated as Common Areas within Section 1 of the Apple Creek Subdivision.

2. ASSOCIATION:

A. Creation: The Developer has caused to be created a not-for-profit corporation under Indiana Law named APPLE CREEK PROPERTY OWNERS ASSOCIATION, INC. This Association will be designed and intended to accommodate, as members, all property owners within the Apple Creek Subdivision.

B. Membership: Each Property Owner of record of a lot within the Apple Creek Subdivision, or the person designated by the owners if there is more than one owner, will be a member of the Association. Membership is not voluntary, but mandatory. Each member will be entitled to the same benefits and consideration whether his or her lot is located in Section 1, Section 2, or in Section 3.

C. Control: The affairs of the Association will be conducted by the Board of Directors, hereinafter "Board", elected by the members at the annual meeting except that the Developer reserves the right to appoint the entire Board until such time as 115 of the lots within the Subdivision have been sold to consumers (Property Owners).

D. Voting: One vote at all meetings of members shall be allocated to each lot regardless of the number of owners or the nature of the ownership. Only those votes cast by members in "good standing" will be recognized. A member not in good standing would be a member who has unpaid and overdue dues or assessments or uncorrected violations of standards of conduct or construction of which he or she has been duly notified.

E. Board: After the period during which the Developer has reserved the right to appoint the Board, the members will elect nine (9) persons, all members in good standing of the Association, to serve as Directors according to the following format: initially, 3 members will be elected to serve for 3 years, 3 for 2 years and 3 for 1 year. Each year thereafter the members will elect 3 Directors to replace the 3 retiring Directors plus electing members to fill any vacancies on the Board.

F. Board Duties: It shall be the duty of the Board of Directors to adopt and enforce such rules and regulations as may be reasonably expected to protect and enhance the value of the property within Apple Creek and to improve the quality of life of those persons living there. The Board shall cause the Association to provide and maintain such amenities and services as the membership shall approve at its regular meeting or at a special meeting called for the announced purpose of considering the offering of such amenities or services except that the amenities and services instituted by the Developer will not be terminated. Such services would include street lighting and maintenance of Common Areas and landscaping situated within the "landscape easements" on lots adjoining the County Roads and maintenance of the area surrounding the East retention pond.

G. **Dues:** The Board will adopt such dues, payable by the Property Owners, as it deems necessary to provide the services offered. Dues shall be payable by each member annually or on such other terms as the Board may approve. Penalties may be assessed by the Board if dues are not paid in a timely manner and the Board is expressly authorized to collect dues through legal action including the imposition of liens on the property belonging to the non-paying member. Any member who owes dues beyond a grace period established by the Board shall be considered a member not in "good standing" and shall forfeit his or her voting rights and the right to use Common Areas or enjoy other amenities supported by the Association. Initially, and throughout calendar year 1994, the dues as set by the Developer acting as the Board, shall be the sum of \$75.00 per year.

H. **Assessments:** The Board may impose assessments to cover the cost of unusual expenditures or improvements. Such expenditures or improvements must have been approved by affirmative vote of 2/3 of the members attending a regular or special meeting of the members one of the announced purposes for which is the consideration of a payment or improvement which will require the imposition of an assessment. The penalties for non-payment of properly imposed assessments shall be the same as the penalties for non-payment of dues.

I. **Property Maintenance:** The Association is hereby given the express authority to enter onto any lot within the Subdivision for the purpose of mowing, removing trash, investigating disturbances or noxious sounds or odors, or for any other purpose which may be reasonably expected to terminate a nuisance. The cost of such remedial activities, including the costs of defending or enforcing any legal action arising out of such activities will be charged to the offending member and shall, upon due process, become a lien on the member's property. Before entering onto any privately owned property, the Association, by its Board must have served reasonable notice upon the owner of the condition deemed to be a nuisance and the owner must have been given reasonable opportunity to correct the condition. The right to enter property granted here does not include the right of the Board or its representative to enter into any building or residence without the express consent of the occupant or owner or upon order of the Court.

J. **Conduct:** The Board will adopt and enforce rules and regulations concerning the conduct of members, their families and guests while on any of the Common Areas. Persons accused of violating such rules and regulations will be given an opportunity to be heard if they feel they have been wrongfully accused. The Board will impose such penalties as seem appropriate including monetary fines for continued or repeated violations and loss of the privilege of using the Common Areas.

K. **Architectural Standards:** The Board shall adopt and enforce such architectural design, construction and maintenance standard as it feel will best protect the value of lots within the Subdivision and the quality of life enjoyed by those persons living there. No construction of any residence or other structure or addition thereto or modification thereof will commence without the written approval

of the Board. No fence, pond or pool nor any sight barrier will be installed without the prior approval of the Board. Any plan or proposal submitted to the Board and not acted upon within 45 days will be deemed to have been approved by the Board.

L. **LIABILITY:** The Board, at the expense of the Association, will carry policies of liability insurance designed to protect the Directors and Officers of the Association from personal liability for personal injury or property damage attributable to the Association or to any Director or Officer while fulfilling his or her duties. The Board will also carry policies of casualty insurance designed to protect the interest of the Association in the Common Areas and improvements thereto. Neither the Developer, any Builder nor any member or Officer of the Association shall be responsible for claims for personal injury or property damage arising out of the existence, use, maintenance or improvement of any of the Common Areas.

M. **COMMITTEES:** The Board will appoint, at a meeting of the Board immediately following the meeting of members at which the Board was elected, such Officers and Committee members as it deems necessary to carry out the work of the Association.

3. **COMMON AREAS:**

A. There are two (2) areas within the Apple Creek Subdivision which are designated as "Common Areas". One (1) of these areas are situated within Section 1 and is referred to as the "West retention pond". The remaining common area consists of the East retention pond and the surrounding property.

B. The Developer will convey ownership of all Common Areas to the Association.

C. The Developer will perform certain landscaping and improvement procedures to the end that attractive entrances will result the maintenance of which shall be a duty of the Association. Some signs, trees, fences, plantings, etc. will be installed by the Developer at the entrances and within the strip of property along the county roads and denoted as "landscape easements". Other, additional or different landscaping elements may be installed in these areas by the Association. Any and all such items remain the property of the Association and no Property Owner is expected nor permitted to alter, remove or augment such items without the express permission of the Committee.

D. The association, by action of its Board, may make other improvements as the membership shall elect.

E. The cost of additional improvements and maintenance of existing improvements shall be borne by the members through dues and assessments.

F. When the Common Area constituting the East retention pond is completed along with the development of Section 3 of the Apple Creek Subdivision, the members owning property within Sections 1 and 2 will have access to this Common Area the same as all other members, their families and guests and will be assessed for the improvement and maintenance thereof. Also, members living in Sections 2 and 3 will have the use of the Common Areas situated in Section 1.

G. Neither the Developer nor any Builder of homes within Apple Creek shall be held responsible for claims for personal injury or property damage arising out of the existence, use, maintenance or improvement of any of the Common Areas.

4. **STREET LIGHTING, TRASH PICKUP, etc.:**

A. The Association may elect to arrange for a single source to provide trash pickup throughout the Subdivision. The cost of such service will be borne by the members through their dues to the Association.

B. The Association may offer or permit others to offer lawnmowing services throughout the Subdivision. The cost of such service will be borne by the members on an individual basis due to the differences in the lots and the attention required.

C. The Association will have no duty to provide or authorize cable TV service nor any other service within the subdivision and will have no responsibility for the availability or the lack thereof nor for the satisfaction with any such service.

D. If street lighting is provided by the Developer, the cost of maintenance thereof shall be borne by the Association.

5. **LAND USE:** All lots are restricted to residential use. See Section numbered 24 below. The subdivision of a lot is prohibited.

6. **RESIDENCE SIZE:** No residence shall be erected, altered, placed, or permitted to remain on any lot other than one single-family residence three stories or less in height. Residences on all lots shall have, at a minimum, attached two-car garages. The ground floor area of the main structure of any one-story residence, excluding garages and porches, shall be not less than 1,250 square feet. The ground floor area of the main structure of any multiple-story residence, excluding garages and porches, shall be not less than 800 square feet, with no less than a total of 1,250 square feet of finished floor space in such multiple-story structure. A residence with a "bonus room" on a second story level will be treated as a multiple-story residence and shall meet all the above requirements for multiple-story residences.

7. **ACCESSORY BUILDINGS:** A utility building, barn, or other accessory building will not be allowed on any lot, except one gazebo type structure and/or one in-ground pool accessory building/bath house. Said accessory building/bath house must be

erected as a part of and in conjunction with a privacy fence surrounding an in-ground pool as provided for in Section numbered 28 below. Before commencement of its construction, any building allowed by this Section must be approved as to location and design by the committee as described in Section numbered 10 below.

8. **BUILDING SETBACK DISTANCES:** Between the front lot lines and the building lines shown on this plat, no buildings shall be erected, placed, altered, or be permitted to remain, nor shall any building be erected nearer than 10 feet to any side line of a lot on one side, and the total of both side setbacks shall be not less than 30 feet. Architectural appurtenances projecting not more than 24 inches, stairways projecting not more than 4 feet, unenclosed and unroofed porch slabs on the front sides of buildings, steps, and walks are exempt from these setback requirements. Lot use in all other respects will conform with the regulations of the Hendricks County Planning Commission unless these Covenants are more restrictive in which case, these Covenants will control.

9. **OCCUPANCY OF STRUCTURES:** No residence shall be occupied or used for residential purposes or human habitation until it has been fully completed upon the outside and substantially completed on the inside, and a Certificate of Occupancy has been issued therefor by Hendricks County. The use of any other structure or mobile home as a residence, either temporarily or permanently, is prohibited.

10. **ARCHITECTURAL DESIGN:** No building, wall, fence, or other structure shall be constructed, erected, placed, or altered in this subdivision until the location plan, building plans, and specifications have been first submitted to, and approved by, the committee as to harmony with the exterior design, quality, and aesthetic appearance of structures already built, and as to conformity with grading plans, exterior architectural elevations, first floor height above sea level as specified in the accompanying Table of Elevations, destruction of trees and other vegetation, and any other such matter as may affect the environment or ecology of the subdivision. The committee's approval or disapproval as required in these covenants shall be in writing. If the committee, or its appointed representative, fails to approve or disapprove any plans and specifications within fifteen (15) days after such plans and specifications are submitted to it or, in any event, if no suit to enjoin the construction has commenced before the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

11. **IMPROVEMENT LOCATION PERMIT.** In addition to the approval required in Section numbered 10 above, Hendricks County must issue an Improvement Location Permit before any structure, improvement, or land use may be altered, changed, placed, erected, or located in this subdivision. The Hendricks County Plan Commission has approved a soil and water conservation plan (erosion control plan) and a development plan showing house locations, first floor elevations, and an "emergency flood route" with slopes for positive surface drainage therefrom. Prior to house construction, each owner is obligated to inspect his lot to insure that the developer's drainage facilities will remove all free water from the surface of the lot. He shall report at once to the developer any deficiencies found. The owner shall develop his lot in a way that assures that finished slopes, grades, and erosion control measures comply with said soil, water, and development plans after completion of all improvements and landscaping. In particular, the Property Owner or his Builder will take such steps as are necessary to assure compliance with Rule

5 of the Indiana Department of Environmental Management requirements dealing with erosion control and all other similar regulations. See Section numbered 26 below. Said plans may be inspected in the office of said commission during regular office hours. Deviations from those plans require prior commission approval and may necessitate a site reevaluation and redesign by a Registered Professional Engineer or Registered Land Surveyor at the time of improvement location permit and certificate of occupancy application, which engineer or surveyor shall certify positive surface drainage and that wastewater will gravity flow from the first floor of the residence to a sanitary sewer. In the improvement of any lot the owner thereof will be accountable to the developer and the Hendricks County Drainage Board for damages caused by him or his contractors to drainage facilities built by the developer. In the event of such damages, the owner will be given 10 days notice by certified or registered mail to repair said damages, after which time, if no action is taken by the owner, the committee may use the procedure described in Section numbered 39 below.

The Table of Elevations appearing on said development plan and on the annexed plat, shows, for each lot, first floor elevations for houses if constructed at the locations shown on said development plan. *The entrance of ground water and surface water into basements shall be prevented by special designs and construction.* See also Section numbered 30 below.

12. **WATER SUPPLY SYSTEMS.** The central water supply system of the Indianapolis Water Company, in lieu of individual water wells, shall be used in this subdivision. The Hendricks County Plan Commission is hereby granted right of enforcement of this covenant.

13. **FENCES:** Fences require committee approval before erection as provided in Section numbered 10 above. No fence shall be placed on any lot or boundary thereof that will obstruct reasonable light, air, or view, or will otherwise hinder or damage the aesthetics of the subdivision. Fences erected in the front yards of residences shall be open wood fences of a decorative type not exceeding four (4) feet in height. Galvanized and vinyl-coated chain link type fencing is prohibited. Swimming pools shall be properly fenced to protect the safety of others as required by Section numbered 28 below. Fences in easements are erected at owners' risk as such fences may be partially or completely torn down by others if they interfere with the installation, operation, and/or maintenance of the facilities for which the easements have been reserved.

14. **CONSTRUCTION TIME:** Unless delayed by court injunction, war, or an act of God, any residence, fence, water line, sewer, ditch, or any structure on any lot, once approved and under construction, must be completed one (1) year from the date construction starts, after which time the committee may, without notice, enter, take possession of said lot and sell the same together with improvements, and after payment of liens and expenses, pay the balance of the sale proceeds to the owner of the lot at the time of sale.

15. **STORAGE TANKS:** Outdoor oil or gasoline storage tanks will not be allowed within the Apple Creek Subdivision.

16. **SIGNS.** This section does not apply to any sign or signs that may be erected on the landscape easements by the developer to be maintained or replaced by the Association. The only signs that may be erected by Property Owners in this subdivision are: those required by law, a single sign placed by a builder or financial institution to advertise a property during the construction and sales period, a single yard sale or garage sale sign placed by the owner no more often than two days twice each year, a single sign placed by an owner to advertise the property for sale or rent or to prohibit hunting or trapping. No sign shall exceed nine (9) square feet in size.

17. **HUNTING AND TRAPPING:** Hunting and trapping are prohibited in this subdivision.

18. **SIGHT DISTANCES.** At driveways no one may place, construct, plant, maintain, allow, or suffer any improvements, landscaping, or other obstructions to vision (excepting mailboxes) between 2 and 8 feet above the finished grade with the purpose that at least 150 feet of sight distance will be provided in both directions along streets from points in the driveways 25 feet from the street curb. Where the committee determines that this rule for a driveway is impracticable or unreasonable, it may allow an alternative that offers the least hazard and interference with traffic.

19. **ANIMALS:** No one shall keep or maintain animals or poultry in this subdivision except no more than two household pets such as cats and dogs, but no pet shall be kept, bred, or maintained for commercial purposes. Household pets shall be kept quiet so as not to disturb the peace and tranquility of the neighborhood. Should an animal be walked by leash, any debris or animal waste resulting therefrom shall be cleaned up, removed, and disposed of immediately by the owner of said animal.

20. **VEHICLE PARKING:** No trucks larger than pickup trucks, disabled vehicles, unused vehicles, campers, motor homes, trailers, recreational vehicles, boats, motorcycles, or similar vehicles shall be parked or repaired on any road, street, private driveway, or lot in this subdivision unless it is screened in such a way that it is not visible to the occupants of the other lots in the subdivision. No vehicle of any kind shall park on any street or road in this subdivision excepting for a reasonable length of time. The committee shall determine what constitutes adequate screening and reasonable length of time.

21. **LANDSCAPING:** The lot owner shall modify his lot for human use and enjoyment by grading and decorative planting within sixty (60) days following completion of a house thereon, weather permitting.

22. **MAINTENANCE OF LOTS AND IMPROVEMENTS:** Each lot owner shall maintain his lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state of repair. Garbage, trash, and other wastes shall be kept in odorless and sanitary containers which shall be emptied weekly by a refuse collection service. At least twice during each of the months of April through September, lot owners or their designated representatives shall mow their lots,

whether or not improved. Each lot owner shall also be responsible for the maintenance and repair of the sidewalks adjoining his or her property whether installed by the Developer along the County road or by the Builder along the lot boundary.

23. **NUISANCES:** No one shall carry out, or allow to be carried out, any noxious or offensive activity on any lot, nor shall anything be done or allowed to be done thereon which may become or be an annoyance or nuisance to the neighborhood.

24. **BUSINESSES.** No mercantile building shall exist, nor shall any manufacturing, wholesaling, retailing business, church, or school operate in this subdivision. Day-care and preschool facilities for no more than six (6) children twelve (12) years or younger are permitted. Builder's sales offices on location in a Model Home shall be permitted.

25. **DEDICATED EASEMENTS:** Each owner of a lot in this subdivision will take his title subject to the rights of utility companies, the developer, Hendricks County, the committee, and the other lot owners in those certain strips or areas of ground designated "utility easement," "drainage easement," and "landscape easement" that are reserved hereinabove. No permanent or other structures may occupy said easements excepting fences and the facilities for which the easements are reserved hereinabove. Fences erected on easements may be removed by easement holders (at the owner's expense) if necessary to the proper operation and maintenance of the facilities for which the easements are reserved. No facility shall occupy any easement in a position that will obstruct a property line or corner.

26. **LOT GRADING:** Lots shall be graded so as not to restrict the surface water runoff or cause ponding or stoppage of said runoff over any lot in this subdivision. See Sections numbered 11 and 21 above.

27. **DRIVEWAYS AND ACCESS RIGHTS:** Residential driveways and sidewalks shall be constructed of portland cement concrete. Pavement shall be a minimum of four (4) inches thick excluding subbase material. Access control to County Road 625E and 150S shall be as shown on the recorded Plat. This access control covenant shall run with the land and shall be binding on all successors in title to said lots.

28. **SWIMMING POOLS:** No swimming pools, where the water level is either partially or completely above natural ground level, shall be permitted. Any in-ground swimming pool shall be properly fenced to protect the safety of others. Before erection, such fence shall receive committee approval as required by Section numbered 10 above.

29. **CRAWL SPACE, BASEMENT, AND FOUNDATION DRAINS:** No crawl spaces, basements, eaves troughs, gutters, downspouts, or foundation perimeter drains shall be constructed to discharge water onto a street. Crawl space drains, foundation drains, and basement drains intercepting and carrying only excess ground water may connect to subsurface drains already in place for that purpose. Should any such subsurface drain become blocked, partially blocked, or damaged with resulting damage to another lot owner and/or to the drainage system of any street, the owner causing said blocking and/or damage shall be liable for all damages to the injured party or parties, the developer, or Hendricks County, and shall hold all contractors, engineers, developers, other lot owners, and said county harmless from liability therefrom.

30. **BASEMENTS**: Basements are allowed on all lots in this subdivision but pump ejector systems for withdrawing wastewater from basement facilities, as well as other pumps for foundation drains, may be required. For regulations regarding basement floor elevations on certain lots, see Section numbered 11 above.

31. **PROSCRIBED AND OTHER IMPROVEMENTS**: No improvements of any kind shall be permitted in a dedicated street right of way excepting erosion control, driveway entrances, sidewalks, landscaping, and mailboxes. No free-standing antennas or roof-top antennas shall be allowed in this subdivision. Satellite dishes or receivers shall be allowed only behind residences, and then only if approved beforehand in each instance by the committee as to location and design.

32. **SANITARY SEWER CONNECTION**: Private sewage disposal systems are prohibited in this subdivision. Every lateral connecting between a residence and a public or semipublic sanitary sewer shall contain a check valve to prevent backflow. The installation and perpetual maintenance of such laterals and check valves is the responsibility of the lot owners.

33. **UTILITIES CONNECTION INSPECTION**. All materials and workmanship in the installation of connections between residences and utility facilities shall be subject to access and inspection by the utility companies having jurisdiction, or by their duly authorized representatives or successors, who shall have the right to require correction of any defects discovered.

34. **SIDEWALKS**: Each initial property owner taking his title from the developer or from a Builder, by acceptance of a deed for his lot, even if not expressed in said deed, is deemed to covenant and agree to build (at the time of construction of the residence) and maintain in good condition a concrete sidewalk at the sides of all streets upon which his lot abuts. Sidewalks shall be constructed within one (1) year of the date of said deed if no residence is erected on the lot, or prior to the conveyance of title to another party, whichever first occurs. Said walks shall conform with the lines and grades established by the committee. Each said owner shall be responsible for grading and finishing yard slopes, erosion control, and decorative landscaping as required by the committee for sidewalk construction. Said walks shall conform with the development plans for the subdivision on file in the office of the Hendricks County Plan Commission and shall be placed on a 4-inch aggregate subbase. Sidewalks, as required, along the County Roads will be installed by the Developer and will be maintained by the Association.

35. **STAKING** The Developer will set lot corner stakes one time. Wherever possible to be driven, corner stakes will consist of 1-inch metal pipes about 30 inches long set so as to leave about one or more inches of pipe protruding above ground unless a different type of monument appears on the recorded plat. Laths, with or without flagging, driven beside metal pipe stakes do not constitute corner stakes but serve only to signalize and identify corner stakes. Said corner stakes will not only furnish a means for determining lot boundaries, but may aid in the location and orientation of improvements to be constructed on the lots. Lot owners shall have charge and care of stakes marking their respective lots and shall be responsible for their preservation. Since restoration will be at the lot owner's

expense, said owners should become familiar with stake locations and do all things necessary to maintain and protect them. Lot owners may hire said partnership to replace stakes damaged or destroyed from any cause, or may engage any registered land surveyor to perform that work.

Accidental displacement of stakes and laths during the construction of public and private improvements, and intentional displacement due to vandalism, may cause conflicts between plat locations and staked locations of lot corners and lines. Neither the Developer nor its engineers or surveyors express or imply any warranty with regard to the correctness of disturbed stakes. Therefore, lot owners and their independent contractors, including their engineers and surveyors, together with utility companies who may install facilities according to stakes in place, shall recognize and act not only by the actual notice on the ground to which they are exposed, but also by the constructive notice afforded by the recorded plat of the subdivision. Before starting any excavation, building, or other improvement, they shall be responsible for comparing all linear and angular measurements between corner stakes found at the site with such dimension exhibited on said recorded plat. They shall correct at once any discrepancies discovered in the stakes.

36. **MUD CONTROL:** Prior to, during, or after construction of any improvements on any lot, the Builder or the Property Owner of said lot or his agents shall construct a driveway or similar graveled or other improved surface on said lot for the delivery of supplies that will discourage or hinder the tracking of mud or other debris from the lot upon public streets. Should mud or other debris be distributed on any public street or other area of Apple Creek, as a result of any activity on any lot, the owner of that lot shall be responsible for the removal of that mud or other material on the date of its placement. The committee may enforce this provision by any mechanism or procedure described in Section numbered 39 below. The Builder or Property Owner further holds Apple Creek Development, Inc., its agents, engineers, contractors, and Hendricks County, Indiana, harmless from any liability that might result from violation of or failure to conform with this or any other section of these restrictive covenants.

37. **MAILBOXES:** The Developer will furnish specifications for a mailbox with post assembly. The owner or his contractor shall purchase and install said mailbox at the owner's expense. No other type of mailbox or mailbox post shall be erected or be permitted to remain at any lot unless approved beforehand by the committee.

38. **INLET AND CATCH BASIN CASTINGS, CLEANING OF:** To facilitate storm water removal from streets and other areas, the Hendricks County Highway Department may keep castings of inlets and catch basins free of silt, debris, and the accumulation of any other foreign matter. However, if any such casting ponds water because said county has not cleaned it, it shall be the duty of the owner or owners whose lots contribute storm water to said inlet or catch basin, to clean said casting and properly dispose of any obstructing debris. Lot owners failing to clean said castings shall be solely liable for damages that may result.

39. **ENFORCEMENT.** If any Property Owner, his or her family members, guests, employees, or agents shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any lot or lots in this subdivision to prosecute by any proceeding at law or equity the person or persons violating or attempting to violate any such covenant, and either prevent him or them from so doing or to recover damages or other dues for such violation. A violation of any restriction herein will not result in reversion or forfeiture of title. If any owner of a lot in this subdivision shall fail to maintain his lot and/or any improvements situated thereon, or to keep sight distances clear, or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said lot and repair, mow, clean, or perform such other acts as may be reasonably necessary to make said lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The committee shall collect its cost thereof in any reasonable manner from the owner. Neither the committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any amount so assessed against any lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that lot subordinate only to the lien of a first mortgage previously recorded until paid in full, and shall also be a personal obligation of the owner or owners of that lot. Such charge shall bear interest at the rate of 18% per annum until paid in full. If, in the opinion of the committee, such charge has remained due and payable for an unreasonably long period of time, the committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing, in any court of competent jurisdiction. The owner of the lot or lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every owner of a lot in this subdivision, and any person who may acquire any interest in such lot, whether as an owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an owner of a lot in this subdivision is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay the committee all assessments that shall be made pursuant to this paragraph. Any right, duty, or power designated herein to the committee shall likewise be extended to any lot owner damaged as a result of a violation of any covenant herein.


40. **STREETS:** All streets and roads shown on the plat and not heretofore dedicated are hereby dedicated to Hendricks County for Public use.

41. **TERM:** These covenants will run with the land and shall be binding on all parties, and all persons claiming under them until July 1, 2013, after which they shall be automatically extended for successive ten (10) year periods, unless, at any time, an instrument signed by at least three fourths (3/4) of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

42. **SEVERABILITY:** Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

The undersigned person, executing this instrument on behalf of Apple Creek Development, Inc, represents and certifies that he is a duly elected representative of said corporation and has been fully empowered by proper resolution of the shareholder or directors of said corporation to execute and deliver this dedication.

IN WITNESS WHEREOF, the said Apple Creek Development, Inc., by C. Reid Priest, President, Developer of the above-described real estate, has set its hand and seal this 4th day of August, 1994.



C. Reid Priest, President
Apple Creek Development, Inc.

STATE OF INDIANA)
COUNTY OF HENDRICKS) SS:)

Before me, a Notary in and for the above named county and state, appeared C. Reid Priest who affixed his signature to the foregoing document and affirmed that this was his voluntary act and deed for the purposes expressed therein.

Date: August 4, 1994.

Commission expires 11-18-94
Resident of Hendricks County, Ind.


Diana F. Scott, NOTARY.

THIS INSTRUMENT PREPARED BY:
C. REID PRIEST
P. O. Box 592
1001 Bloomington Suite 302,
Greencastle, Indiana 46135-0592
(317) 653 5686

ENTERED FOR RECORD

AUG 22 1994
BOOK 143 PAGE 65-77
HENDRICKS COUNTY RECORDER