

RESTRICTIVE COVENANTS FOR INDIAN HILLS ESTATES

114898

THE UNDERSIGNED, LeeRoy Patton and Harmon Crone, as Owners and Developer of "Indian Hills Estates", located in Wayne Township, Owen County, Indiana, do hereby restrict and covenant the lots and other area within the boundaries in said subdivision to themselves and their grantees, assigns, successors, heirs, or local 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, conditions, restrictions and covenants which shall apply in their entirety to all of said subdivision:

*Plat Recorded 5-16-97
Plat 3 page I-1
LP*

1. Definitions.

- A. "Owner" shall mean the person or collection of persons who has acquired or is acquiring any right, title, or interest, legal or equitable, in and to a lot or other area in this subdivision, but excluding those persons having such interest merely as security for the performance of an obligation.
- B. "Association" shall mean the Indiana Hills Estates Property Owners Association as created by the Developer.
- C. "Lot" shall mean any numbered parcel of real estate shown and identified as a lot on the Plat.
- D. "Developer" shall mean LeeRoy Patton and Harmon Crone or their assigns.
- E. "Plat or Plats" shall mean the subdivision plat or plats for Indian Hills Estates.
- F. "Development" shall mean and refer to the residential development know as Indiana Hills Estates, which now exists or may hereafter be created within the real estate described on attached Exhibit "A" as and being the same as shall be subdivided by plat or plats.
- G. "Development Period" shall mean and refer to the period of time during which Developer owns any one (1) within the Development.
- H. "Easements" shall mean and refer to certain "Drainage Easements", "Utility Easements", "Landscaping Easements", and "Road Easements", which are referenced on the Plat.

2. Dwelling Size. The main structure, exclusive of one story porches and garages, shall not be less than 1,000 square feet in the case of a one story structure; the ground floor of a multi-story structure, exclusive of porches and garages, shall be not less than 1,000 square feet.

RECEIVED FOR RECORD

This 16th day of MAY 1997
at 12:48 o'clock P M
and recorded in misc record no. 134 P 162

Sma Jean Franklin

Recorder Owen County

3. **Quality Of Building Construction.** All homes in the subdivision may be constructed on the site using conventional construction techniques at the time of said construction. New modular homes or double wide mobile homes with shingle roof, vinyl windows and 6 inch walls on permanent perimeter foundations of concrete or block are permitted. No single wide mobiles permitted.
4. **Drainage And Utility Easements.** The strips of ground marked drainage and utility easements and all property lines are hereby reserved for the use of public utilities, for installation and maintenance of poles, mains, ducts, lines and wires and subject at all times to the proper authorities or by any of the several owners of this subdivision or any other sections of this subdivision for the installation and the maintenances of either surface or subsurface drainage. To accomplish said drainage, the existing grade of said easements may be altered to any grade necessary. In no situation shall any owner block the drainage in any manner along said drainage swales.
5. **Businesses.** No mercantile building or home residence shall be erected, built or placed on the said described real estate, for the purpose of any business of any nature to be carried on in a manufacturing, wholesaling, retailing, or distribution nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood without written permission from the association. (See Section J).
6. **Temporary Structures.** No structure or a temporary character, mobile home, basement, tent, shed, garage, barn or other outbuilding shall be used upon any lot at any time as a residence, either temporarily or permanently. All dwellings must be fully completed upon the exterior before being occupied.
7. **Covenants For Maintenance Assessments For Lots Contiguous To All Of The Roads.**
 - A. **Creation of the Lien and Personal Obligation of Assessments for Maintenance of the Roads.** The Developer, being the owner of Indian Hills Estates Subdivision, hereby covenants, and each subsequent owners of all Lots, by acceptance of a deed of conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges;; (2) Special assessments for capital 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.
 - B. **Purpose of Assessment.** The Assessments levied by the Association shall be used exclusively for the purpose of road maintenance and legal costs of the association..

- C. Basis and Amount of Annual Assessments. The original assessment pursuant to the Covenants of Indian Hills Estates Subdivision shall be in the amount of one hundred dollars(\$100.00) per each lot that has been sold by the Developer, or its representatives.
- D. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section C hereof, and for the periods there in 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.
- E. Quorum for Any Action Authorized under Sections D. The quorum required for any action authorized by Sections D hereof shall be as follows: At the first meeting called as provided in Sections D, the presence at the meeting of Members or 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 notice 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 that sixty (60) days following the preceding meeting.
- F. Date of Commencement of Annual Assessments. Due Dates. The initial annual assessment, provided for herein, shall commence on the first day of the month following conveyance of a lot to an owner. 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 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 day of any special assessment under Section D hereof shall be fixed in the Resolution authorizing such assessment.
- G. 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.

- H. 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 F hereof), then the assessment and costs of collection thereof as hereinafter provided, shall thereupon become a continuing lien of the property which shall bring such property in the hands of then owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid thirty (30) days after the delinquency date, a penalty fee not to exceed \$25.00 shall be added thereto and from the date interest at the rate of ten percent (10%) per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien 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 the event of Judgment, such judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the Court, together with the costs of the action.
- I. Subordination of the Lien to Mortgages. The lien of the assessments provided for therein shall be subordinate to the lien of any mortgage 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, nor from the lien or any such subsequent assessment.
- J. 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 herein dedicated and accepted by the local public authority and devoted to the public use; (b) all Common Areas 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. The developer also retains the rights to, upon the four (4) lots of his choice to build and maintain a rental storage building(s) and area for any other commercial businesses.

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

- K. Voting Board and Developer. Each owner of a lot in the Development of Indian Hills Estates shall be a member of said association and shall have one (1) vote for all matters coming before the association including the selection of a Board of Directors, which shall consist of not less than three (3) or more than nine (9) members and which shall assume their duties upon expiration of the term of the Initial Board of Directors which shall consist of two (2) members, LeeRoy Patton and Harmon Crone, which Initial Board shall serve until the sales of thirty-five (35) lots in the Development or until developers terminate their involvement.
- L. Roads. It is the intent of the developer to dedicate all of the roads according to the plat to the Owen County Road System. If accepted the Association or developer who ever is in control of the subdivision at the time of completion will have the right to also ask the county about chip and sealing of the road and to negotiate the costs with the county, and also to work with the owners Association to raise the funds. This is not a guarantee by the developer that the road will be chipped and sealed. The Association will also have the right to use the lot assessments to do added maintenance to the public roads within Indian Hills Estates if the county cannot keep the roads up the standards of the Association.
8. Animals. Owners agree not to keep hogs or operate a commercial kennel for dogs, cats or any other animal. Nor shall they keep commercial breeding or wholesaling facilities such as feeder lots for any animals. This provision is not meant to prohibit the use of the land to raise animals other than pigs as pets or for eventual sale. However, owners will not have more than one (1) horse or one (1) cow per two (2) acres owned. With a maximum of no more than 5 animals. There will be a 50 foot set back from all property lines on all fences used to turn animals. All fences have to be of permanent type (no electric fences exclusively).
9. Hunting or Shooting. Hunting or shooting is prohibited in this subdivision, except on lots or combination of lots of one owner of 15 acres or more.
10. Vehicle Parking. No car, boat, truck, motor home or trailer that is not in operational condition shall be permitted to remain on any home sites unless kept within a garage. No vehicle of any kind shall park on any road in this subdivision for more than twenty-four (24) hours.
11. Landscaping. The lot owner shall landscape the lot within one hundred eighty (180) days following completion of house thereon, weather permitting.
12. Maintenance Of Lots And Improvements. Each lot owner shall at all times maintain the Lot and any improvements thereon to prevent the same from becoming unsightly by removing all rubbish, garbage and other materials or conditions that

reasonably detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state of repair. No lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and the same shall not be kept, except in sanitary containers out of the view from the street, except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash. All improved yard areas shall be mowed by the Owner of a Lot, other than Developer, a minimum of once per month during the months of April through October.

13. **Nuisances.** No noxious or offensive activity shall be carried out or allowed to be carried out 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 residents of the Development.
14. **Construction And Repair Time.** Any structure that is externally damaged by fire, tornado or other disaster shall be repaired or removed within six (6) months of such occurrence, or within 6 months of settlement of insurance. Any damage done to the road systems of Indian Hills Estates, public or private, by lot owner or his assigns will be the responsibility of the lot owner for repair. The repair must meet the standards of the Association.
15. **Timber Management.** Merchantable timber may be cut for timber management purposes only. Best Management Practices (BMP's) must be used. No timber under 20 inches Diameter Breast Height (DBH) may be cut unless it would be to improve the yard area or may cause damage to a structure or improves the health of the residual standing timber. No timber may be cut to produce a feeding area for livestock.
16. **No Re-Divided.** No parcel of land shall be re-divided into a smaller parcel except when sold to adjacent property owners.
17. **Blanket Easement.** Each lot shall henceforth be encumbered by a blanket temporary easement for the purpose of installation, maintenance and upkeep of the drainageways and sub-surface drains of the drive, with this blanket temporary easements being supplementary to the easements depicted on the plat of Indian Hills Estates.
18. **Enforcement.** Any owner of any lot or lots in this subdivision may initiate any proceeding at law or equity against any person or persons violating or attempting to violate any covenant herein. The successful party to any such action shall recover attorneys fees and costs incurred in such actions. A violating 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, the Association shall have the right, but not the obligation thirty (30) days after giving legal notice, 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 reasonable necessary to make said lot, and/or any improvements situated thereon, conform to the requirements of these restriction. The cost thereof to the Association shall be collected in any reasonable manner from the owner. Neither the Association 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. 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 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 ten percent (10%) per annum until paid in full. If, in the opinion of the Association, such charge has remained due and payable for an unreasonable long period of time, the Association 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 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 cost, including attorney's fees, incurred by the association 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 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 all fines that shall be made pursuant to this paragraph.

19. **Term.** These 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 from the date that these covenants are recorded. These covenants shall be automatically extended unless there is a termination or change of the covenants by the majority of the lot owners at the time of extension.
20. **Covenant Variances** The Association reserves the right to grant short term and individual covenant variances, as approved by the board of directors, as long as the variances will not be detrimental to the home owners or the Association. No long term variances may be granted unless voted upon and approved by the majority vote of the Association.
21. **Severability.** Invalidation of any one of these covenants, by court order, shall in no ways, affect any of the other provisions, which shall remain in full force and effect.

SELLER ACKNOWLEDGEMENTS

IN WITNESS THEREOF: The said party as developers of the above described subdivisions has hereunto set their hands and seals this 5 day of May 1997.

Lee Roy Patton
LeeRoy Patton

Lee Roy Patton
Print

Harmon Crone
Harmon Crone

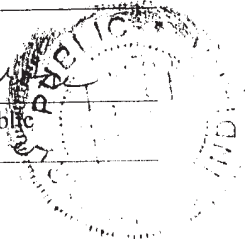
Harmon Crone
Print

STATE OF Indiana, COUNTY OF Morgan, SS:
Before me, the undersigned, Notary Public in and for said County and State, personally appeared LeeRoy Patton and Harmon Crone and acknowledged the execution of the above foregoing instrument as their voluntary act.

This instrument prepared by:

LeeRoy Patton and Harmon Crone
Witness my hand and notorial seal this 5
day of May 19 97
My Commission Expires
12-9-97

Nancy Crone
Notary Public
Nancy Crone



BUYER ACKNOWLEDGMENT:

I agree and hereby acknowledge the terms and conditions of the above Covenants for Indiana Hills Estates.

Signature _____ Print _____

Date: _____

Signature _____ Print _____

Date: _____

STATE OF _____, COUNTY OF _____, SS:

Before me, the undersigned, Notary Public in and for said County and State, personally appeared _____

_____ and acknowledged the execution of the above foregoing instrument as their voluntary act.

This instrument prepared by:

Witness my hand and notarial seal this _____ day of _____ 19 _____
My Commission Expires _____

Notary Public
