

DECLARATION OF COVENANTS
OLD TOWNE ESTATES

WHEREAS, the Declarant is the owner of real property described in the following paragraph of this Declaration; and

The real property, herein referred to as Old Towne Estates which is made subject to the conditions, covenants, restrictions, easements and reservations set forth herein is located in Johnson County, Edinburgh, Indiana, as recorded in Plat Book C, Pages 559, in the Office of the Recorder of Johnson County, Indiana.

WHEREAS, Declarant is desirous of subjecting the real property described above to the covenants hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner and occupant thereof,

The purpose of the Declaration is to insure proper development and use of the property, to protect the owner of each parcel against such improper development and use of surrounding parcels as will depreciate the value of his parcel, to prevent the erection on the property of structures built of improper design or materials, to encourage the erection of attractive improvements at appropriate locations, to prevent haphazard and inharmonious improvements, to secure and maintain proper setbacks from streets and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvement of the property in accordance with a general plan.

NOW THEREFORE, Declarant hereby declares that the real property described in and referred to in Section II hereof is and shall be held, transferred, sold, conveyed, leased, subleased and occupied subject to the covenants hereinafter set forth.

DEFINITIONS

Association shall mean the Owners Association.

Building shall mean and include, but not be limited to, both the main portion of a structure built for permanent use and all projections or extensions thereof.

Building Site shall mean any legally platted lot in Old Towne Estates, Section One.

Committee shall mean the Architectural Review Committee.

Common Areas shall mean and refer to those areas of the property devoted to the common use and enjoyment of the Owners of all of the building sites, including, but not limited to parks, median strips, private streets, entrance parks and drainage areas.

Common Facilities shall mean and include all improvements located on common areas and subdivision identification signs located adjacent to public rights-of-way.

Declarant shall mean the Cherokee Development, Inc. their successors and assigns.

Declaration shall mean this Declaration of Covenants, together with all of the provisions contained herein as they now appear and as they may be hereafter amended.

Improvements shall mean and include, but not be limited to, buildings, out buildings, driveways, parking areas, fences, screening walls, retaining walls, signs, utilities, lawns, landscaping and walkways, located on building sites, together with any construction, work or treatment done or applied to a building site in connection therewith.

Occupant shall mean an entity, whether it be an individual, corporation, joint venture, partnership or association, which has purchased, leased, rented or has otherwise legally acquired the right to occupy and use any building or building site, whether or not such right is exercised.

Owner shall mean the party or parties owning fee title to a building site; provided, however, that an Owner may, upon written notice to Declarant, assign all or part of his rights but not his duties hereunder to Owner's tenant.

1. Conveyance of all lots in this addition shall be made by lot numbers only with reference to the plat. Title to each lot shall be subject to the restrictions set forth herein.
2. No lot shall be used for anything except residential purposes. No dwelling shall be constructed or erected in this addition unless such dwelling shall have a minimum first floor area of 1,300 square feet for a single story, a minimum floor area of 1,300 square feet exclusive of the lower of the three levels on a split level; or 900 square feet on the first floor of a two-story house. All one and one-half story houses shall have a minimum of 900 square feet on the first floor and a total of at least 1,300 square feet. Open porches and breezeways or garages shall not be counted as part of the minimum floor area.
3. No residence shall be established or maintained in any manner within this addition except in a complete and finished dwelling meeting all the requirements of these restrictions.
4. No animal, livestock, or poultry of any kind shall be kept on any lot, except that dogs, cats, or other commonly accepted household pets may be kept provided they are confined to premises. No outside dog or cat houses are allowed.
5. No noxious or offensive trade or activities shall be carried on upon any lot; nor shall anything be done thereon which may be or which may become an annoyance or a nuisance to the neighborhood.
6. Every lot on which a building shall have been placed shall be landscaped according to plans approved by the Committee and maintained thereafter in a sightly and well-kept condition. All landscaping shall be maintained in a manner to keep an attractive appearance. Landscape maintenance shall include adequate mowing, watering, weed killing, fertilizing, and trimming as necessary to keep an attractive appearance.
7. No trees shall be planted, set out, or preserved within the street right-of-way, except by direction of the Board of Public Works and Safety.

8. Easements for installation and maintenance of utilities, sewers and drainage facilities are reserved as shown on the record plat and no private structure may be erected therein. In addition to the underground facilities located within these easements, surface drainage swales and channels are established and are an integral part of the total drainage system and no Owner shall obstruct, re-route, fill, regrade, or otherwise alter or permit such alterations to be made or exist without the written permission of the Board of Public Works and Safety.

9. No primary individual water supply system and/or any type sewage disposal system shall be permitted on any lot, without the approval of the Edinburgh Town Utilities.

10. All structures shall have modern plumbing and shall be connected to the public water and sewer systems.

11. All dwellings within this addition shall have a sidewalk along entire width of lot, as shown on the development plan. All sidewalks shall be at least four (4) inches thick and four (4) feet wide and shall be constructed at the owners expense, at time of construction.

12. Each Owner and/or Occupant of the premises shall be responsible for keeping his building site (whether or not improved), buildings, improvements and appurtenances in a safe, clean, neat and orderly condition. The Owner of each lot shall be liable for and hereby agrees to maintain his property neat, clean, and free of any paper, trash, weeds, or any unsightly growth or other debris. Failure to keep weeds and grass cut to a height of eight (8) inches or less above the ground shall constitute failure to comply with this restriction.

13. If the parties hereto or any of their heirs or assigns shall violate or attempt to violate any covenants set forth herein, it shall be lawful for any other person or persons owning any real property in this addition to prosecute the person and 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.

14. Restrictions on improvements: No temporary buildings or other temporary structures shall be permitted on any building site; however, trailers, temporary buildings, barricades and the like shall be permitted for construction purposes during the construction period of a permanent building, but shall be removed as soon as construction is complete.

15. Architectural and site plan control: The site plan, landscape plan, and building plans require approval of the committee. No construction shall be started on any site until the plans have been approved by the Architectural Review Committee. A set of plans shall be submitted to the committee for approval containing no less than the floor plan, four side elevations, roof plans, exterior building material specifications, plot plan, and landscape plan and such other information as the committee may request.

No building shall be erected or altered on any lot until the construction plans and specifications and a plan showing the location of the structures have been submitted to and approved by the Architectural Review Committee as to quality of workmanship and material, harmony of external design with existing structures, and as to location with respect to property lines, topography, and finish grade elevation.

All construction must be of a conventional nature. No plans will be approved for any type of modular or prefabricated home, except that panelized wall construction may be permitted by the Committee if all other aspects of construction meet the specifications of the Committee.

The set of plans and specification so submitted shall be retained by the Committee and all construction shall be in accordance with said plans and specifications.

16. No building, porch, garage, carport, or other structure may be constructed, erected, or maintained closer to the front or side street line than the building setback line shown on the plat nor closer to the side property line than five (5) feet. All such structures and their location must be approved by the Architectural Review Committee prior to construction.

No storage building shall be permitted on any lot prior to the construction of the home.

17. **Completion of Construction:** After commencement of construction of any structure, the Owner shall diligently prosecute the work thereon, to the end that the structure shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.

18. The Architectural Review committee is composed of the officers of Cherokee Development, Inc. A majority of the committee may designate a representative to act for it. In the event of death or the resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

19. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and related covenants shall be deemed to have been fully complied with.

20. Invalidation of any restriction by judgement, court order, or otherwise, shall not affect any remaining restriction.

21. No fence, wall, hedge, tree or shrub planting which obstructs sight lines at elevations between 2.5 and 8 feet above the street shall be placed or permitted to remain on the lots within the triangular area formed by the street right-of-way lines and a line connecting points 25 feet from the intersection of said lines.

22. No vehicles, boats, campers, RV's, etc. shall be kept on any lot unless stored in a garage.

23. **Owners Association:** For the future needs of Owners and Occupants, there is hereby established the Old Towne Estates Owners Association, herein referred to as the "Association". Each Owner shall be entitled to one (1) vote in the Association for each platted lot owned in Old Towne Estates however, any Owner may assign any vote to which they are entitled to any occupant on such terms as they may agree upon, and during the time any Occupant is entitled to

a vote, such Occupant shall be deemed a member of the Association to the extent of the vote or votes assigned.

The Association is formed to provide for the maintenance, improvement and beautification of common areas and common facilities of Old Towne Estates and to undertake such other activities as are related to maintaining Old Towne Estates as a desirable development for members of the Association. The Association shall cause to be organized or designated some legal entity or nominee which shall be authorized to hold the title to real property. Such legal entity or nominee shall accept and retain legal title to those lands designated as common areas within Old Towne Estates and such other open or park areas as may hereafter be designated as common areas by Declarants and thereafter deeded to the Association. Such legal entity or nominee shall hold such legal title for the use and benefit of the members of the Association, and every member of the Association shall have a right and easement of joint enjoyment in and to the common areas and common facilities. The Association shall be responsible for the maintenance and upkeep of such common areas and any improvements thereon. The Association shall pay or arrange for payment directly by its members on an equitable basis any costs connected therewith. To the ends set forth hereinabove, the Association shall assess its members, provided that such assessments are made upon affirmative vote of not less than two-thirds (2/3) of all votes then outstanding among all members of the Association, and provided, further, that the amount of such assessment shall be made against the members in direct proportion to the number of votes which each has. Each member of the Association shall be fully liable for the prompt payment of the necessary assessments for proper maintenance of the common area.

The Association shall establish its own by-laws for the conduct of its affairs which shall include reasonable notice to each member prior to any meeting. Decisions of the Association shall be by majority of votes cast at any meeting, except as otherwise provided hereinabove.

The Association shall also accept the responsibility of the Architectural Review Committee, if said assignment is made by the Architectural Review Committee.

24. **Constructive Notice and Acceptance:** Every Owner who now or hereafter owns or acquires any right, title or interest in or to any portion of said property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property.

25. **Rights of Mortgages:** All restrictions and other provisions herein contained shall be deemed subject and subordinate to all mortgages and deeds of trust now or hereafter executed upon land subject to these restrictions, and none of said restrictions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust; provided, however, that if any portion of said property is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser of such sale, and his successors and assigns, shall hold any and all property so purchased subject to all of the restrictions and other provisions of this Declaration.

26. **Invalidation:** If any paragraph or part thereof of this instrument shall be invalid, illegal or inoperative for any reason, the remaining parts so far as possible and reasonable shall be

effective and fully operational. The invalidation of any of the provisions of the Declaration or the failure to enforce any provision of said Declaration at the time of its isolation shall in no event affect any of the other parts of the Declaration nor be deemed a waiver of the right to enforce the same thereafter.

27. **Enforcement:** The Declarant, its successors and assigns, and every other person, firm, or corporation hereinafter having any right, title or interest in any land in Old Towne Estates shall have the right to prevent or stop violation of any of said restrictions by injunction or other lawful procedure and to recover any damages resulting from such violations.

28. These covenants shall run with the land and shall be binding on all parties and persons claiming under them for a period of 25 years from the date these covenants are recorded; after which time said covenants shall be automatically extended for successive periods of ten (10) years until an instrument has been prepared, signed by a majority of the resident owners as the date recorded, and duly recorded in the County Recorder's Office, giving notice of such change.

29. **Paragraph Headings:** Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.

30. This subdivision shall be known and designated as the final plat of Old Towne Estates.

31. Houses are to be traditional style.

32. Each house will have a two (2) car attached garage.

33. All structures will have at least 1' overhangs.

34. All structures will have brick veneers on front of building 100% first floor, 40% completely around first floor, or exposed foundations 100% brick.

35. All siding to be wood products.

36. No aluminum windows are allowed.

37. No aluminum or vinyl siding is allowed.

38. All houses are to be built on crawl space.

39. All driveways to be minimum 4" thick concrete.

40. All fire places requiring chimneys must be masonry.

41. All lot owners will be required to install a vintage 1900's style mailbox.

42. Shingles will be not less than a 25 year shingle.

- 43. No unattached building of any kind will be allowed.
- 44. Above ground pools are prohibited.
- 45. Any fence installation must be of wood and style to be approved by Architectural Review Committee.
- 46. Rear door will have patio's or decks no smaller than 100 square feet.
- 47. All garages will be finished inside.
- 48. Roof pitches no less 6" per 12" rise.
- 49. All roof penetration will be in rear of home.
- 50. All house plans to be approved by the developer.
- 51. Any satellite dishes must be installed in rear.

Oct 14 10 15 AM '92

RECEIVED FOR RECORD
 BOOK 65 PAGE 126
 JACQUOLINE E. KELLER
 JOHNSON COUNTY RECORDER

OWNERS CERTIFICATE:

We, the undersigned, Cherokee Development, Inc., Owner of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided and do hereby lay off, plat and subdivide said real estate in accordance with the within plat.

CHEROKEE DEVELOPMENT, INC.

ATTEST:

Timothy W. Toth
 Timothy W. Toth, President

Margaret D. Toth
 Margaret D. Toth, Secretary

STATE OF INDIANA)
) SS:
 COUNTY OF JOHNSON)

Before me, the undersigned, a Notary Public, in and for the foregoing County and State, appeared Timothy W. Toth and Margaret D. Toth, who being by me duly sworn, did say that they are President and Secretary respectively of Cherokee Development, Inc. and that they were duly authorized to sign and did sign said instrument.

WITNESS my hand and Notarial Seal this 13th day of October, 1992.

My commission expires 9-25-95
 County of residence Johnson



Phanda W. Cobb
 Notary Public

Phanda W. Cobb
 Notary typed or written

Prepared By FRANKLIN Engineering Co.

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93000724

**AMENDMENTS TO
DECLARATION OF COVENANTS
OLD TOWN ESTATES**

The real property, herein referred to as Old Towne Estates which is made subject to the conditions, covenants, restrictions, easements set forth herein located in Johnson County, Edinburgh, Indiana, as recorded in Plat Book C. 559 Pages in the Office of the recorder of Johnson County, Indiana.

DECLARATION # 4 Will omit the wording as follows:
NO outside dog or cat houses are allowed.

DECLARATION # 35 Will be totally omitted.

DECLARATION # 37 Will omit the wording (No aluminum or)
And will read as follows: Vinyl siding is allowed.

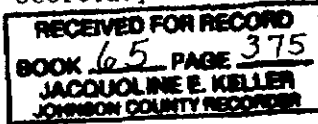
CHEROKEE DEVELOPMENT, INC.

ATTEST:

Timothy W. Toth
Timothy W. Toth, President

Margaret D. Toth
Margaret D. Toth, Secretary

JAN 12 10 19 AM '93

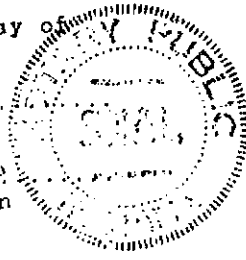


STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before, me, the undersigned, a Notary Public, in the foregoing County and State, appearing Timothy W. Toth and Margaret D. Toth, who being by me duly sworn, did say that they are President and Secretary respectively of Cherokee Development, Inc. and they were duly authorized to sign and did sign said instrument.

WITNESS my hand and Notarial Seal this 12 day of
December 1992.
My commission expires:
County of residence
17.16.93

Susan L. Ingels
Notary Public
Susan L. Ingels
Notary typed or written



This instrument prepared by: Timothy W. Toth

BOOK **0065** PAGE **375**

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93000724

AMENDMENTS TO
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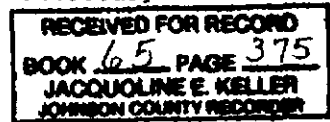
CHEROKEE DEVELOPMENT, INC.

ATTEST:

Timothy W. Toth *Margaret D. Toth*
Timothy W. Toth, President Margaret D. Toth, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

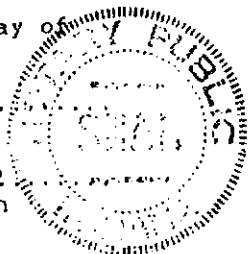
JAN 12 10 19 AM '93



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WITNESS my hand and Notarial Seal this ..12.. day of
December 1992.
My commission expires:
County of residence
..... 7-16-93

Susan Ingels
Notary Public
.....
Susan L. Ingels
Notary typed or written



This instrument prepared by: Timothy W. Toth

BOOK 0065 PAGE 375