

Cross-References: Plat Book 2, beginning at Page 198 (Plat for Deerfield Section One)
Plat Book 2, beginning at Page 273 (Plat for Deerfield Section Two)

**AMENDED, RESTATED AND CONSOLIDATED COVENANTS
FOR DEERFIELD, SECTIONS ONE AND TWO**

THESE AMENDED, RESTATED AND CONSOLIDATED COVENANTS
("Covenants") were made as of the date set forth below.

WITNESSETH, that the following is true:

On September 6, 1960, a Plat was filed with the Hamilton County Recorder in Plat Book 2, beginning at Page 198, that established the subdivision named "Deerfield Section One" consisting of twenty-three (23) Lots, numbered one (1) through twenty-three (23). That Plat included "Protective Covenants" containing provisions that ran with the land; and

On September 21, 1965, a Plat was filed with the Hamilton County Recorder in Plat Book 2, beginning at Page 273, that established the subdivision named "Deerfield Section Two" consisting of twenty-one (21) Lots, numbered twenty-four (24) through forty-four (44). Like Section One, that Plat included "Protective Covenants" containing provisions that ran with the land; and

Deerfield was platted and developed such that both Sections were similarly established as if they were a single residential community; and

The Protective Covenants for both Sections were substantially similar; and

On March 15, 1978, Articles of Incorporation were filed with the Indiana Secretary of State to create the Indiana not-for-profit corporation named Deerfield Civic League, Incorporated (hereafter, the "Association") to serve as the homeowners association encompassing the Lot Owners of both Deerfield Section One and Deerfield Section Two; and

To paraphrase the Association's purposes as stated in Article II of the Association's Articles of Incorporation, the purposes are to promote through cooperative action the general welfare of the residents of Deerfield, to exercise and enjoy all those powers granted to corporations generally under the Indiana Not-For-Profit Corporations Act, as amended, and to do any and every act or thing that is necessary, convenient or expedient for the accomplishment of any purpose or the attainment of any lawful object or the furtherance of any power set forth in the Articles of Incorporation; and

Pursuant to Indiana Code Section 32-25.5-3-9, the governing documents for a homeowners association must be able to be amended at any time, and the governing documents cannot require the consent of more than 75% of the Owners; and

In the interest of maintaining a cohesive, uniform and aesthetically pleasing community, the undersigned Owners, constituting at least 75% of the current Owners of the Lots in both Deerfield Section One and Deerfield Section Two, desire to amend certain provisions of the Protective Covenants by creating and memorializing in this document certain covenants, conditions and restrictions relating to (1) the management and operation of Deerfield Sections One and Two such that they shall be treated as a single subdivision, (2) the administration and enforcement of such covenants, conditions and restrictions, and (3) collection and disbursement of assessments and expenses as herein provided; and

The undersigned Owners, constituting at least 75% of the current Owners of the Lots in both Deerfield Section One and Deerfield Section Two, agree that the Protective Covenants shall be amended and consolidated into this instrument, so that these Amended, Restated & Consolidated Covenants shall supersede the original Protective Covenants and shall hereafter serve as the entire set of covenants, restrictions and conditions governing Deerfield Sections One and Two.

Nothing herein is intended to amend or change in any way that certain "Agreement Amending Restrictive Covenants" dated April, 1960, and recorded in Book 60, Page 137 by the Hamilton County Recorder, providing for certain restrictive covenants applicable to all property located within a 240-acre tract of land in Carmel that includes not only Deerfield but also other real estate. The provisions of that Agreement are attached hereto as Exhibit "A". That document superseded that certain "Agreement Establishing Restrictive Covenants" dated February 23, 1959 and recorded on February 25, 1959 in Book 54, Page 248.

NOW, THEREFORE, the undersigned Owners, constituting at least 75% of the current Owners of the Lots in both Deerfield Section One and Deerfield Section Two, hereby declare that all Lots are and shall be held, transferred, sold, conveyed, hypothecated, encumbered, used, improved and occupied subject to the following provisions, agreements, covenants, conditions, restrictions, licenses, assessments, charges and liens, which shall run with the land and each Lot and shall be binding upon, and inure to the benefit of, the Owners and any other person or entity hereafter acquiring or having any right, title or interest in the Lot.

AMENDED, RESTATED AND CONSOLIDATED COVENANTS
FOR DEERFIELD, SECTIONS ONE AND TWO

~~This subdivision shall be known and designated as DEERFIELD, [SECTION ONE] [SECTION TWO], a subdivision in Hamilton County, Indiana.~~ The streets within Deerfield not heretofore dedicated are hereby dedicated to the public and are thus maintained by City of Carmel. There are strips of ground marked Utility Easements shown on the ~~within-plats for Deerfield~~ which are reserved herein for Public Utilities, not including Transportation Companies, for the installation and maintenance of poles, mains, ducts, sewers, drains, lines, and wires. The purchasers of Lots in this subdivision shall take their title subject to the easements herein created

and subject at all times to the rights of proper authorities to service the utilities and the easements herein created, and no permanent structure of any kind and no part thereof shall be built, erected or maintained on said Utility Easements: unless two conditions are met. First, the owner must provide the Architectural Control Committee with a copy of the applicable Utility company's and/or the municipality's written consent to the installation of such structure in the Utility Easement. Second, the Owner must sign the written waiver provided by the Architectural Control Committee signifying that the Owner understands and agrees that he or she will be responsible for removing the structure if work in the Utility Easement area is needed by the municipality or a utility company, and that any such expenses incurred will be the Owner's responsibility. Trees shall not be planted in said easements except by the written permission of a duly authorized officer of all utility companies concerned. In addition to all Lot Owners being responsible for complying with all applicable municipal ordinances and State laws and regulations, the Lots in this subdivision and the use of said Lots by present and future Owners or occupants shall be subject to the following conditions and restrictions which shall run with the land:

1. Building lines are hereby established as shown on the ~~within~~ plats, between which lines and the property lines of the streets, there shall be erected and maintained ~~[in Sec. 1, the following phrase is used: no permanent or other structures] [in Sec. 2, the following phrase is used: no permanent structure]~~ no permanent structure or other structure or part thereof, except open porches and fences. Fences are subject to prior approval by the Architectural Control Committee as further described in Paragraph 8 below.

2. All Lots in this subdivision shall be designated as residential Lots. Lots may be used for residential purposes only. except that with the consent of a majority of lot owners, a lot or lots may be used for Church or School purposes. Only one single family dwelling not exceeding three stories in height ~~[in Sec. 1, the follow phrase is used: with necessary buildings] [in Sec. 2, the following phrase is used: with accessory buildings],~~ with accessory buildings, shall be erected or maintained on any Lot in this subdivision. ~~Streets in this subdivision shall be constructed in accordance with the specifications of the Commissioners of Hamilton County, Indiana.~~

3. No residence shall be erected or maintained on any Lot in this Subdivision having a ground floor area of less than 1500 square feet, if a one-story structure, or 1000 square feet, if a 1½, 2, or 3 story structure.

4. No building or part thereof shall be constructed within 20 feet of any side Lot line except that in the case where the same person or persons own two adjoining Lots not separated by a utility easement as shown on the within plat, such Owner or Owners may build a residence or ~~[in Sec. 1, the follow phrase is used: necessary building] [in Sec. 2, the following phrase is used: accessory building]~~ accessory building across the dividing line and nearer than 20 feet to such dividing line but no residence or accessory building thereto shall be erected nearer than 20 feet to any other residence or its accessory buildings.

5. As of the date of these amended and restated covenants, most (but not all) lots in Deerfield are believed to be on municipal sewer service. Upon the failure of a private septic

~~system, the lot owner must then convert to municipal sewer service. Until such time as a sanitary sewerage system is installed in this subdivision, sanitary septic tanks with adequate absorption bed or dry well shall be installed for each dwelling erected. Such septic tank and absorption bed and/or dry well shall be of such a type and construction and so located on the land as to be approved in writing by the Public Health Authorities and the Architectural Control Committee hereinafter referred to. No other sanitary project or device for sewer disposal shall be permitted or used in this subdivision unless prior approval is obtained from said committee and the same is approved by the proper regulatory authorities. Only masonry trash burners may be erected and maintained on any Lot in this subdivision.~~

6. No RV/trailer, tent, shack, ~~basement,~~ garage, or temporary/accessory structure of any kind shall be used for as a temporary or permanent residence longer than two (2) weeks unless an extension is granted in writing by the Board of Directors. Similarly, tents and other temporary structures (such as portable storage units or dumpsters) shall not be permitted to remain on a lot for longer than two (2) weeks unless an extension is granted in writing by the Board of Directors. residential purposes on any of the Lots. No noxious or offensive trades shall be carried on on any Lot in this subdivision, nor shall anything be done thereon which shall be or become a nuisance to the neighborhood. No disabled vehicle or other vehicle on which current registration plates are not displayed shall be kept anywhere within Deerfield, except as may be completely enclosed within a garage.

7. No Lot in this subdivision shall be re-subdivided into a building plat having an area of less than one acre.

8. Anything that would change the exterior appearance of a home or other structure or the owner's lot requires prior approval by the Architectural Control Committee. This includes any change in colors. Thus, no buildings (including rebuilt homes), outbuildings or other accessory buildings, fences, walls, ~~mail boxes,~~ driveways, culverts, parking areas, ~~basketball goals or other game areas, T.V. and/or radio or~~ towers and antennae or yard ornaments shall be erected, placed or altered on any of the Lots in this subdivision until the building plans, plot plans, architectural details and specifications showing the location of the proposed improvement or alteration building on the Lot has been approved in writing by the Architectural Control Committee. The Committee shall review an Owner's application and shall take into consideration such things as location, colors, street elevations and conformity and harmony of external design with existing structures in this subdivision. It shall be the duty of said Committee to approve the location, size, height and types of fences in this subdivision. In its review, the Committee shall also consider any Design Guidelines (discussed below) that the Board of Directors has adopted.

The Committee shall have up to 30 days to respond to the Owner's application. If the Committee fails to approve or disapprove such building plans within 30 days after complete and acceptable plans have been submitted to it and receipt acknowledged, or no suit to enjoin the erection of such building or improvement has been commenced prior to the completion thereof, then such written approval shall not be required. If the Committee asks the Owner to provide additional information within that 30 day period, the Owner shall have 2 days to provide the same to enable the Committee to render its decision within the original 30 day period. However,

~~if the Owner's response is provided more than 2 days after the Committee's request, the Committee shall that additional number of days added on to the 30 day period to respond to the Owner's application. , said Committee being composed of David Augustus, Thomas M. Hendricks and G.S. Waddell [For Sec. 1, G.S. Waddell is listed next but for Sec. 2, his name was omitted] In the event of the death of a member of this committee, the surviving members shall have authority to approve or disapproved such building plans.~~

~~The Committee shall be appointed by the Association's Board of Directors. Their term of appointment shall be determined by the Board. All Committee members must own at least one (1) Lot in Deerfield and must reside in their home in Deerfield for nine (9) or more months per year. Also, to be eligible to be appointed as a Committee member, and to be able to continue to serve on a Committee after appointment, the Owner cannot be delinquent on the payment of any assessments or other charges owed to the Association. By a majority vote, the Board may remove any Committee member for any reason. If a Committee member misses three (3) consecutive Committee meetings, that member will be deemed to have resigned from the Committee. In the event of a vacancy of a member, whether by death or resignation, a successor member to this Committee shall may be appointed selected by the Association's Board of Directors. surviving members. In the event of failure of the surviving members to promptly select a successor for a former member, then a majority of the then owners of Lots may make such selection. The members of the Architectural Control Committee shall volunteer their time in the performance of their duties and shall not be entitled to any compensation.~~

~~The Architectural Control Committee can propose and recommend new or amended Design Guidelines to the Board of Directors. Upon adoption by the Board of Directors, the Design Guidelines shall be considered part of these covenants as if they were fully set forth herein. If the Board of Directors adopts new Design Guidelines or makes any changes thereto, they can be overruled by the owners of at least twenty-three (23) of the lots in Deerfield.~~

~~All drain tile, gutters or run offs shall be maintained by each Lot Owner unless such requirement is waived by the Architectural Control Committee. [In Sec. 1, the following sentence appears: Said Committee shall not act and serve without compensation.] [In Sec. 2, the sentence is changed by deleting the word "not" so that it reads: Said Committee shall act and serve without compensation.] On and after September 1, 1980, [for Sec. 2, the year was changed to "1984"], the record Owners may select a new committee of three, which committee shall succeed the committee herein named and shall have all the powers of such committee. A certificate showing the selection of such a new committee shall be duly recorded in the Land Records of Hamilton County, Indiana.~~

~~[The following paragraph only appears in Sec. 2]~~

9. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, even though no specific drainage easement for such flow of water is provided on said plat. Provided that, with the written permission of the Architectural Control Committee, a water retention basin may be constructed, providing that water is not backed up across the Owner's property line.

10. The right to enforce each and all of the limitations and conditions and restrictions set forth herein, together with the right to cause the removal of any building erected or altered in

violation thereof by injunction or other legal process is hereby reserved to the Association and to each and every Owner of the several Lots in this subdivision, their grantees and assigns, who shall be entitled to such injunctive relief without being required to show any damages together with reasonable attorney's fees. However, before the Association may initiate any legal or equitable action in court against an Owner, the Association must comply with any grievance resolution procedures that are mandated under Indiana law, as amended from time to time. As of the date of these Amended, Restated & Consolidated Covenants, such mandatory procedures are set forth in Indiana Code 32-25.5-5.

11. These restrictions constitute covenants running with the land for the benefit of all present and future Owners of all Lots in Deerfield and shall be binding upon the grantees and all persons claiming under them until January 1, 2025, at which time said covenants shall be automatically extended for successive periods of five (5) years. However, at any time and upon the approval of a majority of the then Owners of the Lots, these covenants can be changed in whole or in part. Any such changes or amendments must be signed and notarized by the President and Secretary of the Association. A copy of the Owners' consents or approvals must be attached as an exhibit to the amendments. The amendments must then be filed with the Hamilton County Recorder in order for them to be effective. in effect for a period of 25 years from date, provided that at the expiration of such term, these restrictions shall be automatically renewed thereafter for periods of 25 years each, unless at least one year prior to the expiration of each 25 year period, the Owner or Owners of a majority of the Lots in this subdivision shall execute and acknowledge a declaration in writing waiving renewals and said written declaration shall be recorded in the Land Records of Hamilton County, Indiana, in which event the provisions above set forth shall be null and void.

12. Invalidation of any one of these covenants by Judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

13. As used herein, "Owner" means the record owner, whether one or more persons or entities, of fee-simple title to any Lot. "Owner" shall include any person acquiring title to a Lot by acceptance of a deed conveying title thereto, but excludes those having an interest merely as security for the performance of an obligation unless specifically indicated to the contrary.

14. As used herein, "Lot" means all numbered parcels of land shown and identified as a lot on any plat of Deerfield Sections One and Two recorded in the Office of the Recorder of Hamilton County, Indiana, said plats being recorded in Plat Book 2, Page 198 and Plat Book 2, Page 273, respectively.

15. Each Owner, upon acceptance of a deed to a Lot in either Deerfield Section One or Two, shall automatically be and become a member of the Association and shall remain a member of the Association so long as he or she owns a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Where more than one person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be members of the Association, but the vote in respect of such Lot shall be exercised as the persons or entities holding an interest in such Lot shall determine among themselves, but in no event shall more than one (1) vote be cast with respect to such Lot.

16. Each Owner, for each Lot now or hereafter conveyed by an Owner, hereby covenants, and each future Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) Annual Assessments and (ii) Special Assessments for capital improvements and operating deficits and for special maintenance and repairs. Such assessments shall be established, shall commence upon such dates, and shall be collected as determined by the Board of Directors of the Association and per the By-Laws of the Association.

All such assessments, together with late charges, costs of collection and reasonable attorneys' fees, shall be a continuing lien upon the Lot against which such assessment is made prior to all other liens except only (i) tax liens on any Lot in favor of any unit of government or special taxing district and (ii) the lien of any first mortgage of record. Each such assessment, together with late charges, costs of collection and reasonable attorneys' fees, shall also be the personal obligation of the Owner of the Lot at the time such assessment became due and payable. Where an Owner constitutes more than one person, the liability of such persons shall be joint and several. The personal obligation for delinquent assessments (as distinguished from the lien upon the Lot) shall not pass to such Owner's successor(s) in title unless expressly assumed by such successor(s). The Association shall, upon request of a proposed mortgagee or proposed purchaser having a contractual right to purchase a Lot, furnish to such mortgagee or purchaser a statement setting forth the amount of any unpaid Annual Assessment, Special Assessment and other outstanding charges of the Association against the Lot. Such statement shall be binding upon the Association as of the date of such statement.

Further information concerning the Assessments is contained in Article 9 of the Amended & Restated Code of By-Laws of the Association, including but not limited to the due date of the Annual Assessment and the late fees that will be added to a delinquent Owner's account.

17. No Owner may exempt himself from paying Annual Assessments and Special Assessments, or toward any other expense lawfully agreed upon, by abandonment of the Lot. If any Owner shall fail, refuse or neglect to make any payment of any assessment when due, the Board shall have the right to file a notice of assessment lien with the Hamilton County Recorder. However, the Association shall not be allowed to foreclose upon said lien. Upon the failure of any Owner to make timely payments of any assessment when due, the Association, acting through its Board of Directors, may bring a suit to recover a money judgment for any unpaid assessment. In connection with any effort to collect or in any action to recover an Annual or Special Assessment, regardless of whether litigation is initiated, the Association shall be entitled to recover from the Owner of the respective Lot the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees and court costs).

Notwithstanding anything contained in this Paragraph 17, any sale, or transfer of a Lot to a mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance;

provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor.

18. In addition to these Amended, Restated & Consolidated Covenants, all Owners shall be subject to the Articles of Incorporation and the Amended & Restated Code of By-Laws of the Association, both as may be amended from time to time.

Certification. The undersigned officers of Deerfield Civic League, Incorporated hereby represent and certify that all requirements for and conditions precedent to the foregoing Amended, Restated & Consolidated Covenants have been fulfilled and satisfied, and that the attached homeowner approval signatures are true and accurate copies of the originals that are part of the records of Deerfield Civic League, Incorporated.

In witness whereof, Deerfield Civic League, Incorporated, through its President and Secretary, and the lot owners whose copies of their consents are attached hereto, have caused this document to be executed and approved.

Deerfield Civic League, Incorporated

BY _____

President

BY _____

Secretary

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a notary public in and for said County and State, this day personally appeared _____ and _____, the President and Secretary of Deerfield Civic League, Incorporated, respectively, and acknowledged the execution of the foregoing Amended, Restated and Consolidated Covenants for and on behalf of the members of Deerfield Civic League, Incorporated.

WITNESS my hand and Notarial Seal this ___ day of _____, 2018.

_____, Notary Public

My commission expires: _____

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.” P. Thomas Murray, Jr.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216.
(317) 536-2565.

EXHIBIT "A"

The Deerfield Covenants run in parallel with a set of underlying covenants put in place originally on February 23, 1959, as recorded with the Hamilton County Recorder in Book of Miscellaneous Records number 54, pages 248-251, and amended on April 20, 1960, in Book 60, Pages 137-142. These Restrictive Covenants were filed by Guernsey Van Riper, Jr., Ruth Lilly Van Riper (the original land owners) and Theron Hale and Shirley Hale, the developers of Deerfield calling for the following covenants that continue to run with the land, unaffected by the Deerfield covenants. They state as follows:

1. That the restrictive covenants contained in a certain "Agreement Establishing Restrictive Covenants dated the 23rd day of February, 1959, by and between Guernsey Van Riper, Jr., and Ruth Lilly Van Riper, wife are hereby amended to conform with the following restrictive covenants, which shall henceforth supersede and replace all of the restrictive covenants in said agreement of February 23, 1959.
2. No tract, part, or parcel of the above described real estate shall be sold, transferred, conveyed, or subdivided by gift, inheritance, deed, contract, or otherwise which tract, part, or parcel shall be less than one full acre in area.
3. Only one single family residence dwelling and its appurtenant out-buildings shall be allowed on any one acre of real estate subsequently conveyed, devised, bequeathed, or located on the above described real estate.
4. No building shall be erected on the above described real estate to a height greater than thirty-five (35') feet measured from the grade to a line of the eaves of such building.
5. All tracts and parcels shall have a building set-back of not less than seventy-five (75') from the street or highway right-of-way line upon which such dwelling fronts. No building or portion of a building other than an unenclosed porch or ornamental fence or wall not exceeding three and one-half (3 ½) feet in height may be erected between such building set-back line as herein established and the street or highway right-of-way line.
6. Every lot or tract in the above described real estate shall have a lot frontage of not less than one hundred (100') feet measured at the set-back line, a rear yard of not less than forty (40') feet in depth and a side yard on each side of the dwelling house not less than twenty (20) feet.
7. The restrictive covenants hereinabove set forth in sub-paragraphs 2, 3, 4, 5, and 6 hereof are deemed by the parties to be and shall be construed as covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, transferees, devisees, grantees, successors-in-interest and assigns.
8. That in the event of any violation or attempted violation of any of the covenants herein contained by any of the parties hereto, or by their heirs, executors, transferees, devisees, grantees, successors-in-interest or assigns, any other part or any other party's heirs, executors, transferees, devisees, grantees, successors-in-interest, or assigns, shall have the right to obtain a perpetual injunction against such violation or attempted violation of said restrictive covenants.