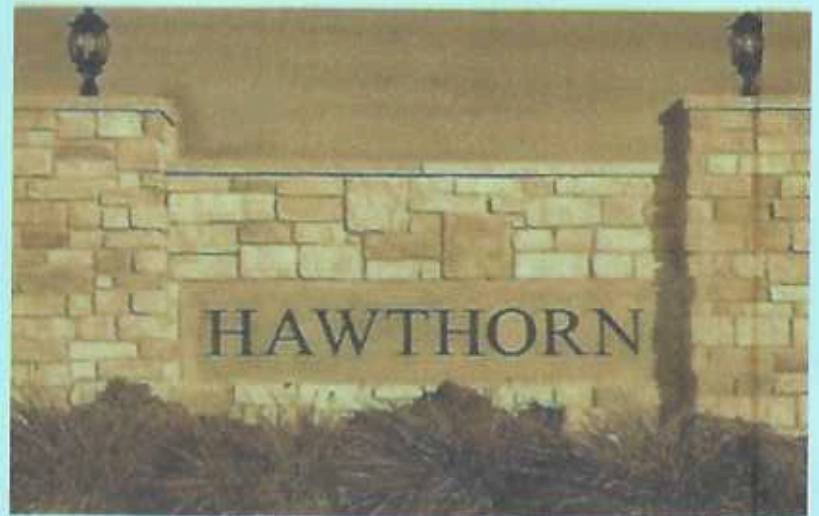


Hawthorn Community Association

Declaration of Covenants, Conditions, and Restrictions



Amended August 2022

Welcome!

Introducing Hawthorn a unique quality of affordable living.

A charming and quiet country setting in Plain township, this unique residential development is enhanced by country breezes, natural habitat and nearby surrounding lakes. Hawthorn combines rural ambiance with the casual everyday living of the fast paced family. Hawthorn Estates is located in the Warsaw Community Public School District.

Hawthorn, conveniently located just North of Warsaw on 450N and 250E, meets the growing needs of the expanding Kosciusko community. A variety of 75 residential home sites, comfortably sized from .47 to 1.87 acres, some offering daylight and walkout options. All utility services are underground and are serviced by NIPSCO and KREMC.

Beautiful Hawthorn offers all the comforts you want to call home.

Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals Appended as Part of the Plat of Hawthorn, an Addition in Kosciusko County, Indiana.

All Lots are numbered from 1 to 75, inclusive. All dimensions are shown in feet and decimals of feet. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

Definitions – The terms hereinafter set forth shall have the following meanings:

"Homeowners Association" means a corporation or entity that acts in accordance with the articles, bylaws, or other documents governing the corporation or entity for the good of the community, heretofore known as Hawthorn Community Association (Association).

"Governing Documents" - The articles of incorporation, Covenants, Conditions, and Restrictions (CC&Rs) and bylaws of a homeowners association and all adopted amendments to these as well as any applicable covenants filed with the office of the county recorder and are legally binding and enforceable.

"Board of Directors (Board)" - members of the Homeowners Association elected to oversee the activities or functional responsibilities of the corporation or entity.

"Member" - shall mean any person who may be entitled and obligated to hold one or more memberships in the Hawthorn Community Association.

"Membership" - shall mean any membership in the Hawthorn Community Association entitled to one vote and one assessment as hereinafter set forth. A member may hold one or more memberships.

"Lot" shall mean either any of said Lots as platted or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more Lots or parts of one or more Lots as platted upon which a Living Unit or other structure may be erected in accordance with the restrictions hereinafter set forth.

Definitions (Continued)

"Living Unit" shall mean all or any portion of a building designated and intended for use and occupancy as a residence by a single family.

"Owner" shall mean and refer to the holder, whether one or more persons or entities, of the fee simple title to any Lot or living unit situated in the Addition.

"Lessee" shall mean and refer to a person leasing from an Owner, whether one or more persons or entities, of any "Living Unit" situated in the Addition.

"Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat and intended to be devoted to the common use and enjoyment of the Owners and Lessees in the Addition.

"Pedestrian Right-of-Way" shall mean any area which is shown on the recorded plat of said Addition for the purpose of a pedestrian traffic system and intended to be devoted to the common use and enjoyment of the Owners and Lessees in the Addition.

"Street" shall mean any street, avenue, roadway, cul-de-sac or boulevard of whatever name which is shown on the recorded plat of said Addition, and which has been heretofore and is hereby, dedicated to the public for the purpose of a public street or boulevard purposes.

"Architectural Control Committee" the body designated herein to review plans and to grant or withhold certain other approvals in connections with improvements and developments.

Covenants, Conditions, and Restrictions

The goals of the Covenants, Conditions and Restrictions (CC&Rs) is to protect, preserve, and enhance the integrity and property values in the community. CC&Rs promote consistency amongst the uses of the properties and outline the rights and obligations of homeowners. A monetary penalty, a daily fine, and/or a suspension of privileges may be imposed for violations.

Use. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached Living Unit for use by a single family. Each Living Unit shall include not less than a two-car garage, which shall be constructed as a part of said structure and attached thereto. Each Living Unit shall have at least one-third masonry brick or stone on the front elevation.

Home Occupation/Business. Any occupation or activity conducted solely by a member of the family residing on the premises which is incidental and secondary to the use of the premises for dwelling, and in general an occupation where services are performed in such a way that visits to the premises by members of the public are infrequent and that the character and intensity of the use is compatible with the quiet nature of residential neighborhoods, provided that (a) not more than the equivalent area of one quarter (1/4) of the total interior finished floor space of the dwelling shall be used for such purpose; b) that such occupation shall not require external or internal alterations, or the use of machinery or equipment not customary for purely domestic household purposes; (c) that no commodity is stored or sold, except as are made on the premises; (d) there shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling. When

Covenants, Conditions, and Restrictions (Continued)

within the above requirement, a home occupation includes, but is not limited to the following: art studio; dressmaking; home offices, teaching, with musical instruction limited two (2) pupils at a time. However, a home occupation shall not be interpreted to include the conduct of barber shops and beauty parlors, retail stores, nursing homes, medical offices, clinics, convalescent homes, rest homes, child care centers, day care centers or nursery schools, restaurants, tea rooms, tourist homes, massage parlors or similar establishments offering services to the general public. Special permits must be obtained and subject to local zoning codes.

General Contractor. No licensed general contractor shall be allowed to construct a residential structure on a Lot in Hawthorn unless written approval is provided by the Architectural Control Committee.

Construction Time. The construction of a Living Unit on a Lot in Hawthorn shall be commenced within 12 months after the date of closing of the purchase of the Lot. All Living Units constructed on any Lot shall be completed as to all exterior construction and finish, including grading of entire lot, landscaping and seeding of the lawn and installation of the driveway within six months after commencement of construction and must be completed prior to occupancy (weather permitting).

No Mobile/Manufactured/Modular Housing. No Living Unit shall be erected on any Lot in Hawthorn other than one which is framed on site. No mobile, manufactured or modular Living Unit shall be permitted on any Lot.

Driveways. All driveways from the street to the garage shall be of concrete and not less than 16' in width.

Covenants, Conditions, and Restrictions (Continued)

Minimum Area. No Living Unit shall be erected or permitted on any Lot having a ground floor area upon the foundation, exclusive of basements (traditional and walk out), open and screened in porches, breezeways or garage, of less than 1,500 square feet in the case of a one story Living Unit, nor less than 800 square feet on the main floor and 800 square feet on the second floor for a Living Unit of more than one story.

Building Lines and Minimum Floor Elevations. No Living Unit or structure shall be erected, placed or located on any Lot nearer to the front Lot line (or nearer to the side Lot line on corner Lots) than the minimum building set-back line as shown on the attached plat. No Living Unit or structure shall be located nearer than 10' to any side Lot line. No Living Unit or structure shall be located on any interior Lot nearer than 25' to the rear Lot line. On a corner Lot, no building or structure shall be located nearer than 15' to an interior Lot line. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections. On Lots adjacent to retention areas, the minimum floor elevation of a Living Unit shall be as stated on the plat.

Further Subdivision. No Lot shall be further subdivided. This shall not prevent the use of more than one Lot as a single building site so long as the additional Lot or portion of a Lot, after combination, may only be transferred as a whole and listed with the City Recorder as one parcel. After such combination the combined Lots will be treated under these restrictions as a single Lot. One Lot is equivalent to one assessment and one member vote.

Yard Light. Each Living Unit will cause an automatically controlled yard light or other illuminating device to be illuminated continuously from dusk to dawn and to be

Covenants, Conditions, and Restrictions (Continued)

installed in the front yard to be cohesive to the neighborhood design. The Architectural Control Committee shall have the authority to approve the design and change in the location of said yard light or illuminating device.

Signs. No sign shall be erected or permitted, except one professional sign of not more than 1' square, or one sign of not more than 5' advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period. Political signs may be displayed on a member's property beginning thirty (30) days before; and ending five (5) days after the date of the election to which the sign relates. Enforceable rules may be added relating to size of signs or number of signs.

Fences. No wire, metal or chain link fences will be permitted on any Lot. Permitted fences shall be in conformity with the Kosciusko County Zoning Ordinance. All household pets shall be contained within a Lot by fences described in this paragraph or by underground containment fences.

Exterior Antenna. No exterior antenna of any type shall be allowed on any lot except a satellite dish of a diameter of 24" or less and/or one flat designed television antenna of similar dimensions, which may have two mounted back to back for receiving signal from two different market areas. Television antennas may be attached to the Living Unit if located in an inconspicuous area and to the rear of the Living Unit. Antenna will be of such design and construction as shall be approved by the Architectural Control Committee; said committee should also have the authority to approve the exterior location of said antennas.

Covenants, Conditions, and Restrictions (Continued)

Swimming Pools. No aboveground swimming pools shall be permitted on any lot. In-ground swimming pools shall be permitted, but shall not be located nearer than ten feet to a side Lot line or nearer than twenty-five feet to the rear Lot line and shall be surrounded by fencing not less than four feet high. The use of approved hard cover is an acceptable substitute for fencing. Inflatable pools may not exceed 120.00 x 72.00 x 23.00 Inches (L x W x H) without a pump/filtration system, and must be able to be deflated, drained and stored.

Gas and Fuel Tanks. No storage tanks of any nature shall be located on any Lot except tanks not exceeding in a thirty pound capacity to be utilized with grills for outdoor cooking.

Landscaping. Upon completion of a Living Unit, each Lot shall have a minimum of six shrubs and two shade trees having a minimum diameter of two inches and shall be planted in the street side yard.

Refuse and Garbage Containers. Refuse, waste and garbage shall be placed by the front street line of the Lot for removal. All garbage shall be placed in a covered container for removal. Refuse and waste shall be kept screened and hidden from view except on the day of removal.

Nuisances. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which constitutes a nuisance or which is hazardous by reason of fire, explosion or in violation of the laws of the State of Indiana or any subdivision thereof. No Lot shall be used for the purpose of raising, breeding, or keeping animals, livestock or poultry except as household pets, providing the same are not kept, bred or maintained for any commercial purpose. Pets shall not be permitted to disturb or create a noise nuisance. All owners

Covenants, Conditions, and Restrictions (Continued)

shall keep weeds, brush or grass mowed and removed from their Lot and upon failure to do so, the Association may have such weeds, brush or grass mowed and removed and the cost and expense thereof shall be paid by the Owner.

No Temporary Living Unit. No structure of a temporary character, trailer, boat, boat trailer, camper or camping trailer, mobile home, basement, tent, garage, barn, tool shed, or other outbuildings shall be either used or located on any Lot or used as a residence either temporarily or permanently. The Architectural Control Committee may approve one accessory building per Lot that coordinates in style and color with the Living Unit. Application needs to be made with the Architectural Control Committee early in the planning stages and prior to installation or construction. The single story structure shall not exceed 16' x 20' with an 8' door opening. Pole buildings, barns and other outbuildings are not permitted

Utilities. No Living Unit shall be connected with distribution facilities provided by electrical, television, internet or telephone services, except by means of wires, cable or conduits situated beneath the surface of the ground, except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave Hawthorn and except for such housings, pedestals or facilities as may be appropriate for connection of utility services for individual Lots. Nothing herein shall be constructed to prohibit street lighting or yard lighting services by underground wire cable.

Solar Energy: Request to install solar panels must be submitted to the Board. Detailed information about the project including the home's location, the color of the system, where it will be installed on the property, any type of screening, etc. must be provided. Installation must conform with the Kosciusko County Zoning

Covenants, Conditions, and Restrictions (Continued)

Ordinances. Certain parameters regarding safety, warranty, and being flush with the roof must also be met.

Metal Roofing. Application must be submitted to the Architectural Control Committee early in the planning stages and prior to installation or construction of any metal roof. Zoning requirements and building codes must be obtained as well as a final inspection.

Exclusions and requirements:

- Metal shingles that mimic traditional roofing products such as clay tile and wood shakes will be permitted.
- Architectural flat panel standing seam or flat panel batten systems are required; corrugated panels are not allowed.
- Concealed fasteners are required; exposed fasteners are not permitted.
- Mechanically attached snow guards are required (multiple systems are available) to prevent or minimize snow and ice slides around perimeters and all eaves. Consideration shall be given to protection of utilities (away from gas meters, vents dryer, furnace, hot water heater, other gas appliances, etc.).
- Metal to be either intrinsically weather-resistant (copper, zinc, terne, or other known metals) or coated with factory applied, proven anticorrosion coatings/paints.
- Colors must be earth tones or compatible with colors of traditional roofing products with a Kynar or equivalent fade-resistant coating, or base metal if exposed weather-resistant metals are used.
- All old roofing materials must be removed and the metal roof installed in accordance with manufacturer specifications. A minimum 15-pound roofing felt shall be used as required by the Uniform Dwelling Code.

Covenants, Conditions, and Restrictions (Continued)

Parking and Prohibited Vehicles. (a) Vehicles shall be parked in the garages or on the driveways serving the Lots and may not be parked elsewhere on the Lot. No Owners or other occupants of any portion of the Real Estate shall repair or restore any vehicles of any kind upon or within any Lot or within any portion of the Common Areas, except (i) within enclosed garages or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. (b) Prohibited Vehicles: Commercial vehicles primarily used or designed for commercial purposes, tractors, busses, mobile homes, recreational vehicles, trailers (either with or without wheels), utility trailer, campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Real Estate except within enclosed garages. Said vehicles may temporarily park for not more than 72 hours for a continuous period. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Real Estate during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas. Any vehicles parked in violation of this Section or parking rules promulgated by the Board may be towed at the expense of the Owner.

Approval of Improvements by Architectural Control Committee. In order to maintain harmonious structural design and Lot grades, no Living Unit building or improvements shall be erected, permitted or altered on any Lot (and construction shall not be commenced) until the construction plans and specifications, and a site plan showing the location of the structure on said Lot and grade elevations,

Covenants, Conditions, and Restrictions (Continued)

have been approved by the Architectural Control Committee. The Architectural Control Committee shall be comprised of three members to be designated by the Board. There after new and replacement members of the committee shall need to be nominated by an architectural committee member and will require the approval of the majority of the board determined by voice vote. Two Sets Of Plans for each improvement, with detailed front, side and rear elevations and floor plans showing square footage (minimum of 1,500) and grade elevations, shall be submitted to the Architectural Control Committee at the Developers office or such other place as may be designated. The Committee's approval or disapproval of said plans shall be in writing; in the event the Committee, or its designated representative, shall fail to approve or disapprove said plans within 30 days after all necessary instruments, documents and other information have been submitted, then approval to the request as submitted shall be deemed to be disapproved as submitted. All improvements shall be constructed in accordance with the plans and specifications as approved by the Architectural Control Committee and any improvements not so constructed shall be subject to immediate removal at Owner's expense. The provisions hereinbefore provided for violation or attempted violation of any of these covenants and restrictions shall be applicable hereto. In addition, before any Lot or tract within the Addition may be used or occupied, said user or occupier shall first obtain the Improvement Location Permit and Certificate of Occupancy required by the Kosciusko County Zoning Ordinance. Further, before any Living Unit within the Addition shall be used and occupied, the Developer shall have installed all improvements serving the Lot whereon said living unit is situated, as set forth in Developer's plans filed with the Kosciusko County Plan Commission. The construction of any Living Unit will meet all County and State Standards and

Covenants, Conditions, and Restrictions (Continued)

Regulations in regards to Building Codes, Safety issues, Erosion control, etc. Contractors are encouraged to contact Kosciusko County Area Planning Commission.

Easements. Easements are hereby expressly reserved and dedicated with dimensions, boundaries and locations as designated on the attached plat for the installation and maintenance of public utilities (including but not limited to, water, gas, telephone, electricity, and any other utilities of a public or quasi-public nature) and sewer and drainage facilities. "No obstruction shall be placed in any surface drainage easements... Permanent structures, trees, shrubs and woody vegetation may not be placed on any right-of-way without the written consent of the Kosciusko Drainage Board and which may be removed by the surveyor if necessary to the proper operation or maintenance of the drain." Indiana Code 36-9-27-33

- a. Any utility company and the Developer, its successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be keep free at all times of permanent structures except improvements installed by an authorized utility and removal of any obstructions by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvements installed by an authorized utility.
- b. No buildings or structures located in the Addition shall be connected with distribution facilities proved by electrical, television or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles

Covenants, Conditions, and Restrictions (Continued)

and overhead facilities that may be required at those places where distribution facilities enter and leave the Addition, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for individual Lot owners). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.

- c. No individual water supply system, or individual sewage disposal system, shall be installed, maintained or used in the Addition except in conformity with state and local rules and regulations. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water runoff sewer system.
- d. Easements for surface water runoff shall be maintained in a manner conducive to the purposes of such easement and shall be maintained by the Association or any proper public authority to which this duty is delegated.

Hawthorn Community Association. There will be organized by the Developer or his successor(s) forthwith a Limited Liability Corporation (LLC), only one such association to be recognized as the Hawthorn Community Association.

Membership. One membership shall be created for each Lot planned in Hawthorn.

Membership Transfer. Memberships will transfer from the Developer to his grantee upon delivery of the deed.

Continuing Membership. The purchaser of any Lot or living unit in Hawthorn shall be a member of said Association and

Covenants, Conditions, and Restrictions (Continued)

shall continue to be a member of said Association so long as he continues to be the Owner of a Lot in Hawthorn for the purposes herein mentioned. Membership shall pass with the ownership of the land or living unit.

Transfer of Membership Rights and Privileges to Lessee. Each owner, or in lieu thereof, each Lessee of a living unit (with the written consent of such Owner to the Association), shall be a member of the Association and have the right to the owner's vote and privileges. Membership, where assigned to a Lessee, will pass with the lease except the Owner may withdraw his membership assignment to the Lessee at his discretion by a 60-day notice in writing to the Association.

Assessments. Developer, for each Lot owned by it within the Addition, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Hawthorn Community Association the Maintenance Fund assessments and charges as hereinafter provided.

- a. Maintenance Fund. The "Maintenance Fund" assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Addition and in particular, for the improvement and maintenance of the greenways, sidewalks, playgrounds and all other Common Areas, including but not limited to, repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes and all other things necessary or desirable in the opinion of the Members

Covenants, Conditions, and Restrictions (Continued)

- b. The Maintenance Fund assessment as herein provided shall commence to accrue and become a lien upon any said Lots or living units as soon as title thereto has been divested from Developer, or when a Living Unit or living unit shall be erected thereon, whichever shall first occur, and shall be payable on the first day of January of each year thereafter. All assessments shall be determined by and paid to the Association, and the Association shall be responsible for carrying out the purposes of such assessments.
- c. The amount of said Maintenance Fund assessment is established as follows:
 - i. The annual assessment for the calendar year starting January 1, 2005, shall be \$100.00 per assessable membership.
 - ii. For each year thereafter, commencing with the year beginning January, 2006, the Board of Directors of the Association shall establish a budget for such calendar year and shall determine the annual membership assessment required to meet said budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then mail to all Association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable.
 - iii. The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as hereinafter provided. The President or Secretary of the Association shall call a

Covenants, Conditions, and Restrictions (Continued)

- meeting of the membership of the Association, to be held prior to December 31st of the year prior to the year to which assessment is applicable, upon receipt, prior to November 30th, of a written petition for assessment review bearing the signatures of at least 20% of the memberships of the Association. The President or Secretary of the Association shall give at least a 15-day written notice of such meeting to all members.
- iv. Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent of 2/3 of the memberships of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any meeting a quorum of not less than 50% of all memberships shall be required.
 - d. Collection.** Such Maintenance Fund assessment, together with interest thereon and costs of collection as hereafter provided, shall be a lien upon the property against which each assessment is made. Each such assessment together with interest thereon and costs of collection, shall also be the personal obligation of the person or persons who was/were the owner(s) of such property at the time when the assessment fell due. The obligation of the assessment is upon the owner of the property or the living unit and is not transferred, even though the owner may have transferred the membership and voting rights in Hawthorn Community Association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the then owner to pay such assessment shall remain a personal

Covenants, Conditions, and Restrictions (Continued)

obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within 60 days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 8% per annum, and the Association may bring an action against the owner personally obligated to pay the same, or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing such action. The Lien of the assessments as provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the property, taxes and assessments for public improvements.

Duration and Alteration. These protective covenants, restrictions, and limitations shall be construed as, and shall be covenants running with the land and shall be binding upon all Owners and Lessees of land in said Addition and all persons claiming under them. They shall continue in existence for a period of 50 years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of ten year each. The protective covenants, restrictions and limitations (but not the easements) may be changed abolished or altered in part by written instrument signed by the Owners of not less than 75% of the memberships of the Hawthorn Community Association; and may be changed, altered or amended by the Developer within two years from and after the date of recording hereof. All said amendments, changes or alterations, however, shall have the prior approval of the Kosciusko County Plan Commission or its successors.

Covenants, Conditions, and Restrictions (Continued)

Waiver. The failure of either the Developer or an Owner to enforce any covenant contained herein or right arising from any covenant contained herein shall in no case be deemed a waiver of that right or covenant.

Severability. Invalidation of any one of these provisions shall in no way affect any of the other provisions, which shall remain in full force and effect.

HAWTHORN

PLAN TOWNSHIP, BOONVILLE COUNTY, INDIANA

