

PROTECTIVE COVENANTS
RELATING TO
WINTERGREEN SUBDIVISION
NORMAL, IL

KNOW ALL MEN BY THESE PRESENTS:

TIEHACK DEVELOPMENT CORPORATION, hereinafter called the "Developer", is setting forth the following covenants, conditions and restrictions:

CLAUSE I

The real property, which is and shall be held and which shall be transferred, sold, and conveyed subject to the conditions, restrictions, covenants, reservations, and charges with respect to the various portions of this declaration, is situated in the County of McLean, State of Illinois, and is more particularly described as follows, to-wit:

SEE LEGAL DESCRIPTION (Exhibit "A")

Said property may be referred to in these covenants as the "subdivision".

CLAUSE II

To insure the best use and most appropriate development and improvements of each building site therein; to protect the owners of building sites against such improper use of surrounding land as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials; to obtain harmonious appearances; to encourage and secure the erection of attractive homes with appropriate set-backs from streets and adequate free-spaces between structures; to coordinate grade-lines in conformance with such plans as prepared by Lewis, Yockey & Brown, Inc, Engineers; and in general to provide adequately for improvements of high quality on said property and thereby enhance the values of investments made by purchasers of building sites therein, the real property described in Clause I hereof is hereby subject to the following conditions, restrictions, covenants, reservations, and charges, to-wit:

A. LAND USE AND BUILDING TYPE No lot shall be used except for residential purposes. No building shall be erected, placed, or permitted to remain on any lot other than a single-family dwelling.

No business, trade, industry, assembly, fabrication, occupation, or profession of any kind, whether commercial, religious, educational, or otherwise, whether designated for profit, altruism, exploration or otherwise, shall be maintained, conducted or permitted in any residence.

A home office with electronic transfer of business or professional data, but without customer visits, deliveries, visiting vehicles, noise or other visible pedestrian or vehicular traffic or activity will be permitted unless conditions arise or are present that are in conflict with the general objectives and ambiance of Wintergreen Subdivision.

B. MINIMUM SQUARE FOOTAGE. The minimum square footage of living space (not including enclosed porch, breezeway, garage or basement/crawlspace) above the ground of each residence constructed shall be as follows:

All lots except 51-57 and 63-68

RANCH STYLE (square feet one level) 1800

TRI-LEVEL (square feet on top two floors) 1800

TWO-STORY (square feet on two floors) 2200

ALL OTHER PLANS - square footage to be approved by Developer

Lot 51-57 and Lot 63-68 - (near the park area at Raab Road entrance)

RANCH STYLE (square feet on one level) 2000

TRI-LEVEL (square feet on top two floors) 2000

TWO STORY (square feet on two floors) 2400

ALL OTHER PLANS – square footage to be approved by Developer

C. APPROVAL OF PLANS All residential new construction plans must be submitted for review by the Developer, Tiehack Development Corporation, or its designated successor. All plans must indicate construction materials and any bold or unusual colors being used. Proposed building plans must be submitted prior to obtaining a building permit and approval is a condition precedent to the commencement of any construction activity.

The Developer reserves the right to make recommendations to the exterior design that will gain approval and achieve Developer and Covenant objectives as stated in the first paragraph of Clause II.

D. GRADE ELEVATION CONTROL. All residential construction must be positioned on the lot to comply with the finished grade plan prepared by Lewis, Yockey and Brown, Inc., Engineers, and approved by the Town of Normal.

E. GARAGE REQUIREMENTS. Each residence must have not less than a two-car nor more than a three-car garage attached to the residence. Each garage shall have a concrete driveway from the street to the garage floor.

F. CONSTRUCTION MATERIALS. New building materials shall be used for construction and remodeling of residences in the Subdivision. No modular construction shall be allowed. Pre-cut and/or preassembled components, however, may be used if approved by Developer.

Developer reserves the absolute right to reject any exterior construction materials not thought to be in the best interest of Wintergreen Subdivision and not consistent with the intent of these Covenants. Brick, natural stone, manufactured stone, wood siding, exterior insulation finish systems (Dry-vit) and .042 gauge and higher vinyl siding are acceptable.

At least 400 square feet of masonry, brick or stone, shall be used on the front elevation of the house unless such application is not appropriate for the design of the house and an exception is approved by the Developer.

G. FOUNDATION REQUIREMENTS. All residences shall have basements or crawl spaces. No construction shall be allowed on concrete slabs.

H. FOOTING TILE REQUIREMENTS. A perimeter footing tile drainage system is required for each residence. It shall be connected to a "common" footing tile drainage system installed by Developer for the benefit of the Subdivision. The footing tile system

shall be installed in such a way that the bottom of the inside diameter of the perimeter footing tile is a minimum of one inch (1") below the top of the adjacent footing. Adequate natural fall to the "common" footing tile drain system is required.

I. SET-BACK REQUIREMENTS. All residences shall be set back from the front lot line a minimum of 30 feet. Interior lots shall have a minimum side yard of 6 feet from the side lot line. Corner lots shall have a minimum side yard on the street side of 25 feet from the side lot line. Rear yard set-back requirements are 35 feet from the rear lot line.

J. EXTERIOR COLORS. Exterior wall, trim, deck, door and roof colors shall harmonize with the site and surrounding residences. The predominate tones should tend toward muted, warm, earthy hues. Bold or dramatic colors may be used provided they are used sparingly and in good taste. Furthermore, bold or dramatic colors must be shown on the construction plans submitted for approval. The Developer has the absolute discretion as to appropriate choice of any color scheme at original construction or subsequent repainting or remodeling.

K. DETACHED BUILDINGS. No detached structures or outbuildings shall be constructed in the subdivision.

L. TEMPORARY STRUCTURES. No temporary structure, trailer, basement, or garage shall be used as a residence on any lot at any time. No building shall be occupied as a residence until the exterior surface has been completed, including final painting or staining.

M. SURPLUS DIRT No surplus dirt from new construction shall be removed from the Subdivision without approval from the Developer. Any surplus dirt from the homesite excavations or grading shall be dumped in an area provided by the Developer.

N. LANDSCAPING. All lots must be landscaped within six (6) months of the completion of construction. Minimum landscaping requirements are:

Front Yard:

1.) New grass sod. A seeded front yard is permitted only if a full coverage, in-ground irrigation system is installed before seeding.

2.) Two- 2" or larger diameter deciduous trees of a native hardwood variety or Two- 4'-0" to 6'-0" evergreen variety trees.

Rear and Side Yard:

1.) New grass sod or grass seed

These landscape requirements are intended to establish a permanent minimum landscape level for Wintergreen Subdivision that is consistent with Subdivision common area landscaping. All minimum requirement sod, seed or trees must be replaced with at least minimum requirement material during the next growing season if damaged, destroyed or, for any other reason, do not survive. Costs of all replacements will be the sole expense of the lot owner.

O. EXTERIOR LIGHTING. The Developer reserves the right to reject any exterior light fixture if, in its sole discretion, it appears excessive, inappropriate or inconsistent with all other lighting in the Subdivision. Lighting fixtures shall be placed and focused so that they do not create a bright light source to adjacent lot owners.

P. FENCES AND WALLS. Fencing and/or privacy walls or screens are considered to be inconsistent with the overall "open and natural" character of the Subdivision. Living landscape materials are recommended to create privacy and for other screening needs.

In the event that fencing or a "privacy wall" structure is desired for screening, security, safety or privacy reasons, plans showing location, color scheme and type of construction must be submitted to the Developer for prior written approval. All fences or wall-type structures must comply with code requirements of the Town of Normal.

Q. UTILITY SERVICES. All residences must be served by underground electric systems and utility distribution systems including, but not limited to gas, electric, water, telephone and cable.

R. SOLAR APPLICATIONS. The use of passive or active solar applications and the orientation of the residence to maximize solar gain is allowed only with Developer's approval.

S. PRE-OCCUPANCY LOT MAINTENANCE. Each lot owner shall be responsible to maintain their vacant lot or partially constructed residence in such a manner as to minimize and control wind and water erosion and to minimize the presence of noxious weeds. Grass shall be maintained to not exceed a height of eight inches (8"). All construction materials shall be secured and/or removed daily to avoid trashy and unsightly conditions for neighboring lots.

Failure of the lot owner to comply with this provision after written notice from the Developer shall authorize Developer without further notice to lot owner, to have the problem corrected and to charge the cost thereof to the lot owner. The Developer, may, if necessary, take legal action against the lot owner to secure reimbursement for all costs of correction and all court costs and reasonable attorney's fees related to taking legal action.

T. STORAGE. Firewood and other materials that are typically stored outside must be screened from view so as not to be visible to near-by homeowners.

U. PETS. Only common household pets shall be allowed in the Subdivision.

No commercial or barnyard type animals shall be kept in the Subdivision at any time.

V. PARKING RESTRICTIONS. No travel trailers, trucks, cars, equipment trailers, recreational vehicles, mobile homes, boats, boat trailers, motor bikes, trail bikes, or similar equipment shall be kept outside on any lot for more than 24 hours. Any such equipment, if stored for longer periods, must be stored entirely within the garage area so as to be screened from view when the garage doors are closed.

W. TRASH. Trash, garbage, paper, or other waste shall not be burned on any lot or in the Subdivision as required by Town of Normal ordinance. All trash and trash containers shall be stored inside the residence so as to be screened from view except when moving trash to the curb on designated collection days.

X. INTOXICATING LIQUOR. There shall be no sale of intoxicating liquor on any lot in the subdivision.

Y. SIGNS. No billboards or advertising signs, whether free-standing or attached to a house shall be allowed except those permitted by city ordinance and those used for contractor and real estate sales signage during initial construction and any subsequent remodel or resale.

Z. RECREATIONAL FACILITIES/EQUIPMENT. Permanent or portable outside recreational equipment, such as swing sets and basketball goals, must be located in the rear or side yards only.

Any permanent recreational facility such as a swimming pool or recreational court requires written approval by the Developer. No above ground pools will be permitted under any circumstance.

AA. SATELLITE DISHES. No outdoor satellite dishes over 18" in diameter or other TV, radio or other transmission and/or reception towers or equipment shall be allowed on any lot, whether attached to any structure or free standing.

BB. DRIVEWAY, SIDEWALK, CURB, AND GUTTER DAMAGE. All driveway aprons (that portion of the driveway from the street to the property line) shall be constructed of concrete. Lot owner agrees to be responsible for maintaining the curb and gutter on the lot. In the event that the curb or gutter is broken or damaged during any construction on the above-described lot, the lot owner assumes responsibility for the damage and agrees to pay the actual costs of repair or replacement of same even though title to the property belongs to the Town of Normal. Said repairs must be completed within ninety (90) days following written notice by Developer.

Each lot owner will be responsible for the installation of City sidewalks pursuant to the subdivision code of the Town of Normal.

CC. PERFORMANCE TIME REQUIREMENTS. Lot owners specifically agree that if they have not started construction of a residence on the property contracted for within one (1) year from the date of said contract, then in such event Developer is herewith given the exclusive and unlimited right and option to repurchase said lot for the price paid Developer, free and clear of any and all liens or encumbrances. In the event of such repurchase real estate taxes shall be prorated to the date of repurchase. This provision is set forth to help speed the development of the overall subdivision. Lot owners acknowledge and agree to comply with the same in total.

Furthermore, construction of a residence on the lot must be completed within one year of commencement of construction. Developer will assess penalties of \$100/day for each day required to complete after the one year allowance. All penalties become a lien on the property.

DD. HOUSE NUMBERS & MAIL BOXES. Each lot will have a street address number assigned by the Town of Normal. Address numbers are required to be incorporated into the front exterior design and permanently attached to each residence.

Mailboxes are required to be uniform and consistent for all residences in the subdivision. Developer will specify but not provide the approved mailbox for the Subdivision, including color, style and support structure. Repair and replacement of mailboxes or mailbox support structures will be the lot owner's responsibility and any repair or replacement must be as per the currently approved design.

CLAUSE III

When ninety (90) percent or more of the residential lots in the property then subject to these covenants, including any property added pursuant to Clause IV, as platted by the Developer, have been sold by Developer. Developer agrees that it will within sixty (60) days cause a not-for-profit corporation to be formed under the laws of the State of Illinois. Said corporation shall be known as Wintergreen Homeowners Association hereinafter "Association" or such other suitable name as may be selected by Developer.

A. Membership

1. Every lot owner is a member of the Homeowners Association.
2. Membership in Association shall not be restricted for any reason.
3. Members may vote in person or by proxy.
4. Each lot is entitled to one vote in all matters voted upon by the Association. Lots that have more than one owner must determine who will vote for their lot.
5. No member shall be expelled nor will a member's voting rights be

cancelled by the Association, except during such period of time that such member, or his or her lessee, is in default in the payment of any assessment owed to the Association.

B. Directors & Officers

1. As soon as conveniently possible after issuance of the corporate charter to the Homeowners Association, a meeting shall be called pursuant to a written notice given by the Developer, the incorporators of the Homeowners Association.
2. At the first meeting five (5) directors shall be elected by the members of the Homeowners Association.
3. The five (5) elected directors shall hold office until the first Annual Meeting.
4. The five (5) directors shall elect from their members a President, a Vice President, a Secretary, and Assistant Secretary and a Treasurer. The business affairs of Association shall thereafter be managed by these five directors, thereafter referred to as the Board of Directors.
5. In the event of a vacancy in the office of a director due to death, illness, resignation or any other reason, the remaining directors shall appoint a successor director to serve for the unexpired term of the office.
6. The Association, after its organization, shall have its Annual Meeting in November of each year and the Secretary of the Association shall notify all members in writing at least fifteen (15) days before the Annual Meeting of the time and place of the meeting.
7. The Board of Directors, in addition to "loss of vote" sanctions provided for in Sec. A(5) above, has the authority to institute actions in law on behalf of the Homeowners Association against the owner or owners of any lots in the subdivision to recover any Special or Annual Assessment adopted by the Association and not paid by the owner or owners of lots to which the assessments apply within 30 days after written notice of delinquency.

CLAUSE IV

The undersigned reserves the right to add from time to time, in whole or in part, the property described in Exhibit B. Owners of lots in property added pursuant to this paragraph shall become members of the Wintergreen Homeowners Association and shall be subject to the same terms and conditions established by these covenants as amended from time to time.

With respect to Lot #49 and Lot #69, these covenants shall not be deemed to be violated by existing conditions located on those lots, more specifically, detached buildings,

existing landscaping, satellite dish, fences, house numbers and mailboxes. Replacement, restoration or rehabilitation of any existing structure or feature on Lot #49 or Lot #69 must be accomplished so as to be reasonably similar in appearance and style to the original structure or feature to continue to be exempt as an existing condition.

If Lot #49 or Lot #69 is resubdivided by the owner thereof, all lots created thereby shall be subject to these covenants and the above mentioned exception for existing conditions will be deemed to be waived and shall not apply.

Developer reserves the right to create a separate homeowners association for lots north of Beech Street if, in the absolute discretion and opinion of the Developer, a new and separate association would be serve the needs and interests of the homeowners in that development area.

CLAUSE V

The following definitions shall apply to these Wintergreen Protective Covenants.

- A. "Association" shall mean and refer to Wintergreen Homeowners Association of Normal, Illinois, or such other name, as may be selected, an Illinois not-for-profit corporation, its successors and assigns and/or other homeowners associations created in subsequent phases of Wintergreen Subdivision.
- B. "Lot" shall mean any plot of land shown on the recorded subdivision map referred to above with the exception of the common areas and elements of the subdivision.
- C. "Maintenance" shall mean the exercise of reasonable care to maintain the berms, vacant lots, common areas, entrance signs and other privately owned (non-public) property within this subdivision.
- D. "Member" shall mean every person or entity who holds membership in the Association or Associations.
- E. "Mortgage" shall mean a conventional mortgage or a deed of trust.
- F. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the subdivision, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.
- G. "Mortgager" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.
- H. "Subdivision" shall mean any property subject to these covenants, whether by way of the initial recording or by way of the addition of property pursuant to Clause IV and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

CLAUSE VI

A. The undersigned hereby covenants for each lot within the subdivision and each owner of a lot is hereby deemed to covenant by acceptance of his deed for such lot, whether or not it shall be solely expressed in his deed, to pay the Association Annual Assessments and all Special Assessments for capital improvements and operating expenses adopted by the Association. Such assessments will be established and collected as hereinafter provided. The Annual and any Special Assessment, together with interest and judgment rate interest as permitted by statute plus costs and reasonable attorney fees, shall be charged as a continuing lien on each lot against which such an assessment is made. Each assessment, together with interest, costs and reasonable attorney fees, as provided herein, shall also be the personal obligation of the person, persons or entity who own the lot at the time the assessment is adopted, but such personal obligation shall not pass to the successors in title of such person, persons or entity, unless expressly assumed by them.

B. The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any lot shall not effect the assessment lien. The sale or transfer of any lot pursuant to a mortgage foreclosure, or any proceeding in lieu thereof, however, shall extinguish the assessment lien as to payments which become due prior to such sale or transfer.

C. The annual assessment levied by the Association shall be exclusively used to promote the health, safety, welfare, and recreation of the residents in the subdivision, and for the improvement and maintenance of the common areas and common elements situated within the subdivision. Annual assessments shall be used to provide:

1. Maintenance and repair of the common area landscaping, entrance boulevard landscaping and entrance signs including irrigation and electrical service.
2. Liability insurance insuring the Association against any and all liability to the public, to any owners or to the invitees or tenants of any owner arising out of the use of the common areas and common elements within the Subdivision.
3. Workmen's compensation insurance to the extent necessary to comply with the Illinois Revised Statutes as made and provided.
4. A standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in an amount to be determined by the Board of Directors.
5. Any other materials, supplies, labor, insurance, taxes or assessments which the Association is required to secure or pay pursuant to the terms of this declaration or by law, or which shall be necessary or proper in the opinion of the Board of Directors of the Association, for the benefit of the lot owners or for the enforcement of these covenants and deed restrictions.

D. Until the Association is formalized and a not-for-profit corporation is chartered, Developer shall be responsible for maintenance of the common areas, entrance boulevard, and entrance signs as provided herein. Furthermore, the Developer may determine the Annual Assessments required to provide the required maintenance and other needs for the common areas and common elements of the Subdivision.

E. Until such time as the not-for-profit corporation is formed and the Board of Directors is elected, the Developer may assess each owner an annual fee for the maintenance provided in these covenants. Developer will be responsible for payments of Assessments for ready-for-sale lots owned by the Developer at the time the assessment is levied.

F. The assessment must be determined at the same uniform rate for all lots unless a different homeowners association is created as referred in Clause IV in which case each association will determine its own assessments.

G. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of 10% per annum. The Association may bring an action at law against the owner personally obligated to pay the same or it may create and foreclose a lien against the property. No owner may waive or otherwise escape liability for the assessments provided herein.

CLAUSE VII

A. Easements:

1. Easements for installation and maintenance of utilities and drainage routes are shown on the recorded subdivision plat. Within these easements, no structure, planting or other materials which may damage or interfere with the installation and/or maintenance of utilities, or which may, interfere with or change the direction of flow of drainage routes in the easements, shall be placed or constructed.

2. No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right-of-way, and such easements, reservations, and right-of-ways shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to the Developer, its successors and assigns, all of whom have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any purpose for such easements, reservations and right-of-ways as reserved.

B. Partition:

There shall be no judicial partition of the common areas or of the common elements, nor shall the Developer, or any owner or any other person acquiring any interest in the

subdivision or any part thereof seek judicial partition thereof. Nothing contained herein, however, shall be construed to prevent judicial partition of a lot in co-tenancy.

CLAUSE VIII

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 twenty-five (25) years from the date that these covenants are recorded, after which time said covenants shall be automatically extended to successive periods of ten (10) years unless an instrument in writing, executed by the then record owners of sixty percent (60%) in area of the land within the boundaries of said lots, shall have been recorded in the Office of the Recorder of Deeds of McLean County agreeing to change said covenants in whole or in part.

These covenants can be amended by the vote of 75% of the members of the Association at a meeting called for that purpose or the Annual Meeting. Members shall be given 30 days advance written notice of any proposed changes to be considered at the meeting and written documentation of the existing covenant provision(s) and the proposed modification(s) along with adequate explanation of the reasons for and impact of the change. All such notice and documentation shall be approved and presented by the Board of Directors of the Association.

CLAUSE IX

Enforcement shall be by proceedings at law or in equity against any person, persons or entity violating or attempting to violate any covenant. Proceedings can be either to restrain such violation or to recover damages.

CLAUSE X

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

CLAUSE XI

All rights of enforcement herein granted to Developer shall also be granted to any successors or assigns of Developer, and thereafter, shall be enforceable by the Board of Directors of the not-for-profit Homeowners Association created in Clause III of this document. These covenants, however, will remain in effect and cannot be changed until all lots encumbered are sold and all first-time, new construction is completed unless otherwise approved by Developer.

IN WITNESS WHEREOF, the undersigned as owner and developer of the Wintergreen Subdivision as described herein has executed this document for the uses and purposes herein set forth on this ___ day of _____, 2002.

