

**AMENDED, RESTATED AND CONSOLIDATED
WELLINGTON NORTHEAST COVENANTS**

**ARTICLE 1
PROVISIONS APPLICABLE TO ALL SECTIONS**

Section 1.1. All Lots in this subdivision are reserved for residential use and no building other than a one-family residence or structure or facility accessory in use thereto shall be erected thereon.

Section 1.2. Not more than one building shall be erected or used for residential purposes on any Lot in this subdivision.

Section 1.3. No trailer, tent, shack, attached shed, basement, garage, or temporary building shall be used for temporary or permanent residence on any Lot in this subdivision. An attached garage, tool shed, or detached storage building erected or used as an accessory to a residence in this subdivision shall be of a permanent type of construction and conform to the general architecture and appearance of such residence, and must be approved in advance by the Architectural Control Committee.

Section 1.4. No fences shall be erected in this subdivision between the building lines and the property lines of the streets as shown on the plats, except with approval of the Architectural Control Committee, which fences shall not exceed 42 inches in height and shall be of a decorative nature. Exceptions to the foregoing may be approved by the Architectural Control Committee for corner lots as well as the height of fences. For any fence that is replaced or newly installed after the date of filing of these Amended, Restated and Consolidated Covenants with the County Recorder, no chain link fence will be permitted.

Section 1.5. No structure in this subdivision shall exceed 2 1/2 stories or 25 feet in height measured from finish grade to the underside of eave line, and no structure other than an open porch shall be erected between the building line as designated on the plat and the property line of the street.

NEW ARTICLE 10 BELOW WILL REPLACE THE ORIGINAL SECTION FOR THE ARCHITECTURAL CONTROL COMMITTEE.

Section 1.6. No campers, trailers, boats, or similar vehicles shall be parked on any Lot in this subdivision unless the same shall be parked in such a manner that it is not visible to the occupants of other Lots in this subdivision or the users of any streets in this subdivision.

Section 1.7. All Lot Owners will be required to install, or have installed, at least one gas or electric "dusk to dawn" light in the front, either as a free-standing yard light or a coach light mounted on the garage. Each Owner shall maintain the dusk-to-dawn lights installed on his or her Lot in good working condition, including but not limited to, replacement of photo cells and light bulbs.

Section 1.8. No animals, livestock, or poultry of any description shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes and do not create a nuisance.

Section 1.9. It shall be the duty of the Owner of each Lot in this subdivision to keep the grass on the Lot properly cut and to keep the Lot free from weeds and trash and otherwise neat and attractive in appearance. Should any Owner fail to do so then the City or Noblesville or the Association may take such action as it deems appropriate in order to make the Lot neat and attractive, and the Owner shall upon demand reimburse the City or the Association for the expense incurred in so doing.

Section 1.10. No Lot in this subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and shall not be kept, except in sanitary containers. Rubbish, garbage or other waste shall be kept in sanitary containers inside the garage of the home except not more than 24 hours prior to or after its removal thereof, when it may be placed at the curb of the Lot. An Owner may keep their containers outside the garage, but only if the containers are out of public view. All equipment for storage or disposal of such materials shall be kept clean and sanitary.

Section 1.11. Each Owner shall be responsible for maintaining and keeping his or her Lot, home, and all other structural improvements located on his or her Lot in a good, clean, neat, sanitary and well-maintained condition and shall do such work thereon as is required to cause such Lot and structural improvements to be so maintained.

Section 1.12. No Lot shall be used by an Owner for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable zoning ordinance, may be permitted: any use conducted entirely within the home and participated in solely by a member of the immediate family residing in said home, which use is clearly incidental and secondary to the use of the Lot for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that will indicate from the exterior that the Lot or home is being utilized in whole or in part for any purpose other than that of a dwelling; (b) no commodity sold upon the premises; (c) no person is employed other than a member of the immediate family residing in the home; (d) such office or business generates no significant number of visits or unreasonable parking usage by clients, customers or other persons related to the business; and (e) no manufacture or assembly operations are conducted. Provided however, that in no event shall the following or similar activities be conducted or considered to be a permitted Home Occupation: licensed child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog grooming, or any other similar activities.

ARTICLE 2 MINIMUM SIZE REQUIREMENTS, INCLUDING GARAGES

FOR LOTS IN SECTIONS 1-11: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than fifteen hundred (1500) square feet in the case of a one-story structure, nor less than one thousand (1000) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of eighteen hundred (1800) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR LOTS IN SECTIONS 12, 13, 15A, 17-28: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than fifteen hundred (1500) square feet in the case of a one-story structure, nor less than nine hundred (900) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of eighteen hundred (1800) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR SECTION 14, LOTS 236-258: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than fifteen hundred (1500) square feet in the case of a one-story structure, nor less than nine hundred (900) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of eighteen hundred (1800) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR SECTION 14, LOTS 259-270: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than eighteen hundred (1800) square feet in the case of a one-story structure, nor less than eleven hundred (1100) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of twenty-two hundred (2200) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR SECTION 15B, LOTS 233-235 AND 276-292: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than fifteen hundred (1500) square feet in the case of a one-story structure, nor less than nine hundred (900) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of eighteen hundred (1800) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR SECTION 15B, LOTS 271-275: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than eighteen hundred (1800) square feet in the case of a one-story structure, nor less than eleven hundred (1100) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of twenty-two hundred (2200) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

FOR LOTS IN SECTION 16: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than fourteen hundred (1400) square feet in the case of a one-story structure, nor less than nine hundred (900) square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of eighteen hundred (1800) square feet of finished and livable floor area. All garages shall be attached to the residence dwelling and be a minimum of two car size.

ARTICLE 3 SETBACK REQUIREMENTS

FOR LOTS IN SECTIONS 1-15 A & B, 17-19, 28: No building, structure or accessory building shall be erected closer to the side of any Lot than 10 feet. Where buildings are erected on more than one single Lot this restriction shall apply to the side lines of the extreme boundaries of the multiple Lots.

FOR LOTS IN SECTION 16: No building, structure or accessory building shall be erected closer to the side line of any Lot than 6 feet, provided that both side yards shall equal at least twenty percent (20%) of the actual Lot width. Where buildings are erected on more than one single Lot this restriction shall apply to the side lines of the extreme boundaries of the multiple Lots.

FOR LOTS IN SECTIONS 20-27: No building, structure or accessory building shall be erected closer to the side line of any Lot than 9 feet, provided that both side yards shall equal at least twenty percent (20%) of the actual Lot width. Where buildings are erected on more than one single Lot this restriction shall apply to the side lines of the extreme boundaries of the multiple Lots.

ARTICLE 4 EASEMENTS

Section 4.1. Easements for Lots in Sections 1-27. The utility easements shown on the plats are reserved as easements for use of city or county in which this subdivision is located, Owners in this subdivision, and public utility companies for the installation, use, maintenance, repair, and removal of sewers, water mains, utility poles, wires and other facilities and utilities necessary or incidental to the common welfare and use and occupancy for residential purposes of the houses to be erected in this subdivision. No building or other structure, except walks or driveways, shall be erected or maintained upon, over, under, or across any such utility strip for any use except as set forth, herein, and Owners in this subdivision shall take their title to the land contained in such utility strip subject to the perpetual easement herein reserved.

The Cable TV easements shown on the plats are reserved for the approved franchised "Company" and its successors and assigns, forever, the easement and right from time to time hereafter to erect, install, lay, use, maintain,

replace, increase or decrease the size of and remove coaxial cable and other fixtures and appurtenances for the purpose of transmitting and distributing radio and television signals by way of said coaxial cable, on, over, under and across said easement. This also includes the right of ingress and egress for all purposes incident to such easement, and the "Company" is hereby granted the express right to make clearances of brush and debris from said property in order to successfully install and maintain said coaxial cable.

The drainage easements shown on the plats are reserved for the drainage of storm water, whether by swale, ditch, or storm sewer. No structure other than storm water drainage structures, retaining walls, or elevated walks and driveways shall be erected in, on, over, under, or across any such easement; except that a drainage easement may also be used as a utility strip, and structures permitted in a utility may be erected therein provided that they do not interfere with the flow of water. Owners in this subdivision shall take their title to the land contained in such drainage easement subject to the perpetual easement herein reserved.

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.

Section 4.2. Easements for Section 28, Lot 532. There are strips of ground shown on the within Lot 532 labeled Drainage, Utility, and Sewer Easement (D., U., & S.E.), said strips are hereby reserved for the use by Public Utility Companies for the installation of but not limited to "Water and Gas Service Lines, Sanitary and Storm Sewer Pipes, Electrical, Telephone, and Television Cables, by the approved franchised "Cable Television Company" and all necessary appurtenances thereto. Said strips shall also as easements for the drainage of water by surface swales. No permanent or other structures, except walks or driveways, providing that said walks or driveways do not interfere with the natural flow of storm water drainage, shall be erected and/or maintained upon, over, under, or across such easement strips of land. This also includes the right of ingress and egress for all purposes incident to such easement, and such Public Utility Companies and Cable Television Company is hereby granted the expressed right to make clearances of brush and debris from said easement strips in order to successfully install and maintain such "service lines", "pipes" and "cables" either by aerial or below surface lines, pipes or cables. The Owner of said Lot 532 shall take title to the land contained in such easements, subject to a perpetual easement herein reserved.

ARTICLE 5 RIGHT OF ENFORCEMENT

The right to enforce the within restrictions, limitations, payments of assessments, and covenants, as well as the provisions of the Association's By-Laws, whether such enforcement action is at law or in equity, is hereby dedicated and reserved to Owners of Lots, their heirs and assigns, as well as the Association, all of whom shall be entitled to such relief without being required to show any damage of any kind to any such Owner or Owners, by or through any such violation or attempted violation. If the Association or an Owner is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, or charge now or hereinafter imposed by the provisions of these Covenants, the Plats, or the By-Laws, it shall be entitled to recover from the party against whom the proceeding was brought all of the reasonable attorneys' fees and related costs and expenses it incurred in such proceeding. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provision, which shall remain in full force and effect. No delay or failure by the Association or any Owner to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that Owner or the Association of the right to do so thereafter, or as an estoppel of that Owner or the Association to assert any right available to him or it upon the occurrence, recurrence or continuation of any violation or violations of the restrictions. Notwithstanding the above, no Owner may claim, collect, or recover attorney fees against the Association, the Committee, or from any officer, director, employee, agent, or other authorized agent of the Association arising from any failure or alleged failure to comply with any provision of these

Covenants, the Plats, or the By-Laws, or of any action taken or omission of any alleged duty or responsibility of any of the above with regard to the management or operation of Wellington Northeast, or the operation of the Association.

**ARTICLE 6
DURATION AND AMENDMENTS**

Said provisions shall be and continue in full force and effect for a period of twenty (20) years from the date of this plat, and thereafter unless and until by a vote of the then Owners it is agreed to change the covenants in whole or in part. These Covenants may be amended or changed, in whole or in part, at any time upon approval by the Owners of a majority of the Lots that collectively make up all Sections of Wellington Northeast. All Lot Owners must be given the opportunity to vote on the proposed amendment(s). Such approval for an amendment to these Covenants may be obtained:

- (a) at a meeting of the members of the Association duly called and held in accordance with the provisions of the Association's By-Laws; or
- (b) by written consents or approvals received from the Owners; or
- (c) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporations Act of 1991, as amended, including, but not limited to, written mail-in ballots; or
- (d) any combination of the above.

The President and Secretary of the Association shall execute the amendment, certifying that the Owners of a majority of the Lots approved such amendment. Thereafter, the amendment shall be filed with the Hamilton County Recorder.

**ARTICLE 7
EASEMENT MAINTENANCE REQUIREMENTS**

FOR LOTS IN SECTIONS 10B, 11, 14, 15 A & B, 17-19, 21-28: Easement maintenance: On drainage easements, the City of Noblesville shall be responsible for the care, maintenance, repair and/or replacement of actual structures in place, such as sewer pipes, manholes, castings, etc. and each property Owner as it pertains to his Lot or Lots shall maintain surface drainage systems and open swales. The city shall have access rights over and across said easements.

**ARTICLE 8
BLOCK K – THE LAKE**

FOR SECTIONS 21, 22, 23 – BLOCK K: The parcel of real estate designated on the plat of the subdivision as "Block K" is to be used as a drainage retention pond. Owners of the following Lots abut Block K: 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, and 427. Such Lots shall be referred to as "Lake Lots". By purchase of one of these Lake Lots, each Owner shall also acquire an undivided one-twenty first (1/21st) Ownership interest in Block K. This Ownership of Block K shall be indivisible from the Ownership of the Lake Lot. This undivided interest shall run with the title to a particular Lake Lot and shall not be separately conveyable therefrom.

Each Block K Lake Lot Owner shall share pro rata in the expenses of construction, maintaining, repairing, altering, reconstructing, improving, removing, and insuring the improvements in Block K. If one or more Lake Lot

Owners fail to pay their allocable share of such expenses, then the Lake Lot Owners paying such expenses may file a lien for the reasonable value of the work performed and materials furnished as prescribed by the lien laws of the State of Indiana against any such Lake Lot and the Owner thereof, and recover the full assessment owed together with interest from the due date and reasonable attorney's fees and costs.

Owners of Block K shall be members of an unincorporated association known as "Block K Property Owners Association". The Association shall meet at least annually to elect a three (3) member Board of Directors. Each Lake Lot shall be entitled to one (1) vote. The Board of Directors shall determine, by majority vote, what is necessary to maintain repair, alter, reconstruct, improve, remove or insure the improvements in Block K including any reasonable reserve. The Board shall determine the amount of the annual assessment to be paid by each Block K Lake Lot Owner for these necessary expenses.

The Block K Board of Directors shall make and enforce reasonable rules and regulations for the use of Block K by its members. Sanctions may include reasonable monetary fines, suspension for the right to vote and the right to use Block K. The Block K Board shall have the power to seek relief in any court for violation, to abate nuisances and to collect unpaid assessments of behalf of the Block K Association.

ARTICLE 9 DEFINITIONS

Section 9.1. As used herein, "Owner" means the record Owner, whether one or more persons or entities, of fee-simple title to any Lot within any section of Wellington Northeast. "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.

Section 9.2. As used herein, "Lot" means all numbered parcels of land shown and identified as a Lot on any Plat of the various Section of Wellington Northeast recorded in the Office of the Recorder of Hamilton County, Indiana.

Section 9.3. As used herein, "Association" means the Wellington Northeast Neighborhood Association, Incorporated, an Indiana not-for-profit corporation originally established on June 19, 1989 upon the filing of Articles of Incorporation with the Indiana Secretary of State. Matters pertaining to membership in the Association, as well as mandatory assessments payable by the Owners, shall be as set forth in the By-Laws of the Association, a copy of which is attached hereto as an Exhibit and is incorporated herein by reference.

ARTICLE 10 ARCHITECTURAL CONTROL

Section 10.1. Architectural Control Committee. An Architectural Control Committee (the "Committee") composed of at least three (3) Lot Owners shall appointed by the Board of Directors and may be, but need not be, members of the Board of Directors. The exception to this is that the Chair of the Committee must be a Board member. Committee members shall be subject to removal by the Board upon a majority vote at any time, with or without cause, and any vacancies from time to time shall be filled by appointment of the Board. At the Board's discretion, the Board may serve as the Committee. Subject to these Covenants, the Committee shall regulate the external design, appearance, use, location and maintenance of Lots and improvements thereon in such a manner as to preserve and enhance values and maintain a harmonious relationship among structures and the natural vegetation and topography, and in keeping with the intent of the provisions of these Covenants.

Section 10.2. Lot Improvements. No dwelling, building, structure, fence, deck, swimming pool, or improvement of any type or kind (including significant landscaping) shall be constructed or placed on any Lot, nor shall any of the same be modified or altered, without the prior approval of the Committee. Such approval shall be obtained only after the Owner of the Lot has made a written application to the Committee. Such written application shall be in the manner and form

prescribed from time to time by the Committee and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, improvement, alteration or change. Such plans shall include plot plans showing (i) the location of the improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated and (ii) all easements, setbacks, and rights-of-way and (iii) any landscape plans required by the Committee. Such plans and specifications shall further set forth the composition of all exterior materials proposed to be used and any proposed landscaping, together with any other materials, photographs, or information, which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale as the Committee deems appropriate. It is also recommended that a certified survey be prepared to ensure that a resident is not encroaching on another person's property. If an Owner has encroached on another person's property, the encroaching Owner will, at his or her own expense, move any fence or other improvement(s) to eliminate the encroachment.

No fence or screen of any kind will be permitted if its installation will obstruct necessary site lines for vehicular traffic. Undue obstruction of view of other amenities from adjoining properties shall be considered by the Committee when reviewing applications for approval.

Section 10.3 Approvals. Approvals, determinations, permissions, or consents required herein shall be deemed given only if they are given in writing and signed by at least one (1) member of the Committee.

Section 10.4 Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to and actually received by it. The Committee shall retain one copy of submitted material for its permanent files. All notifications to applicants shall be in writing. In the event that such notification is one of disapproval, the Committee shall specify in its notice the reason(s) for disapproval and may suggest modifications in the application that would render the application acceptable to the Committee, and the requesting applicant may re-apply with changes. If, however, approval has not been received by applicant in writing within thirty (30) days, then said request shall be considered DENIED.

Section 10.5 Exercise of Discretion. The members of the Committee may exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce these Covenants in which an abuse of discretion by the Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

Section 10.6 Inspection. The Owner, by submission for the approval of any alteration or addition, approves the Committee, the Board of Directors or their appointed agent to inspect the construction and or completed project and grants them access to the Lot to do so.

Section 10.7 Liability. The Committee, the Board, and the Association shall not be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Committee, the Board, or the Association be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Committee, Board and Association make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, and required municipal permits and inspections on each Lot prior to proposing construction or alterations.

Section 10.8 Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement with or without cause. Common grounds for denial include, but are not limited to, a lack or absence of the following:

- (A) The plans, specifications, drawings or other material submitted must themselves be adequate and complete, show the proposed improvement, and not be in violation of these Covenants or the Plats;

- (B) The design or color scheme of a proposed improvement must be in harmony with the general surroundings of the Lot or with adjacent buildings or structures; and
- (C) The proposal should preserve or enhance the value and desirability of the Wellington Northeast subdivision and be consistent with the interests, welfare or rights of the Association and any other Owner.

Section 10.9 Power to Grant Variances. The Committee may allow reasonable variances or adjustments of these Covenants where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Covenants or to comply with written request of the municipality in charge of applicable permits. No variance or adjustment shall be granted which is knowingly and materially detrimental or injurious to other Lots in the Wellington Northeast development, and any such variance granted shall not be considered as precedent setting.