

## **Indenture of Trust and Restrictions for Whispering Hills Subdivision**

(Please note that the following is merely a summary and you are directed to the original documents for more specific information)

1. **What is an Indenture of Trust:** The indenture is legal document that was created by the original owners of the subdivision in order to preserve it's identity as a "...restricted neighborhood and to protect it against certain uses by the adoption of a sound urban environment plan." It sets out in detail the terms of its operation to be honored in perpetuity and includes certain prohibitions and limitations on the use of the property as well as granting certain rights, powers and authority to the Trustees to carry out the expressed terms of the Trust on behalf of the beneficiaries (home owners and apartment dwellers).
2. **How are the Trustees Selected? :** Trustees will be elected by vote of the current owners of single family residences and the multiple family dwelling units at a meeting designated by the current Trustees once a year. The owner of each single family residence will have one vote and the owner of a lot containing a multiple family dwelling unit will have one vote for each two units. There are currently 110 homes and 330 apartment units. Therefore, the homeowners shall elect one trustee and the owners of the multiple family units shall elect two trustees. The term of each Trustee will be 1 year. (See Constitution and By Laws, Article VIII).
3. **What are the duties and powers of the Trustees? :** The duties and power of the Trustees are as follows:
  - a. To acquire and hold common land and to dictate to public use any private streets which would be accepted by a public agency.
  - b. To exercise control over easements, streets, entrances, parks areas, lakes, and other common land as well as sewers and pipelines thereon or under as is necessary to maintain, repair, rebuild, supervise, and insure the proper use by the utilities and others for services to property owners.
  - c. To maintain and improve buildings, recreational facilities, and other structures provided for the general use of the owners of lots in Whispering Hills and to prescribe reasonable rules and regulations for their use.
  - d. To establish rules and regulations for the operation of all recreational facilities located in common areas and to employ personnel to supervise the safe use of each. Regulations shall include charges to residents for use of faculties by their guests.
  - e. To prevent any infringement and to compel the performance of any restriction set out in the indenture or established by law or any rules and regulations established by the Trustees covering the use of common land or any matters relating thereto.

- f. To clean up rubbish and debris including trimming, maintaining and or removing shrubbery, flowers or trees on vacant or neglected lots and charging said lot owners reasonable expenses so incurred.
  - g. To consider, approve or reject any and all plans and specifications for any proposed buildings, structures, fences, swimming pools or tennis courts including additions to existing buildings or alterations to the exterior of said buildings. The Trustees shall have 30 days after submission of plans to review and approve or reject the proposed construction or alteration. They shall also have authority to require a reasonable deposit in connection with the proposed construction to cover clean up of debris and repair of any damage to other property that inadvertently results. Approval shall require a majority of the Trustees. In the event the Trustees fail to approve or reject the plans and specifications within the 30-day period, approval will be deemed to have been met.
  - h. To purchase and maintain liability insurance protecting Trustees and homeowners from claims for personal injury or property damage resulting from use of common area facilities.
  - i. To enter into contracts for services or labor, and to hire legal counsel as necessary to institute or defend against suits that may arise out of the performance of their duties hereunder.
  - j. To pay real estate taxes and assessments levied on said common land and to impose assessments upon and against property owners as needed to cover the cost of carrying out the general duties and powers of the Trustees.
4. **What are assessments and how are they determined?** Assessments are charges similar to a tax that are imposed upon all property owners to uniformly allocate costs incurred by the Trustees in the performance of their duties. There are two types of assessments:
- a. **General assessments:** These are predetermined annual charges that fund the normal costs incurred by the Trustees to carry out their general duties and powers and for the further purpose of enabling the Trustees to defend and enforce rules, regulations and restrictions. The indenture stipulates that an assessment in an amount not to exceed \$50.00 per lot and \$12.50 per multiple family dwelling unit shall be imposed annually for this purpose.
  - b. **Recreational facilities and swimming pool management and maintenance assessment (see Memorandum of Understanding 1/1/08):** The Trustees shall meet annually to review and approve the budgeted income and expenditure plan for the following year. Once approved, required assessment will be determined and voted on. Allocation of assessed costs will be allocated based on a ratio of 20% chargeable to homeowners and 80% chargeable to apartment owners.
  - c. **Special Assessments:** If at any time the Trustees consider it necessary to make expenditures above and beyond those outlined above, they shall submit a written proposal detailing the nature and cost of the

project and the amount of the required assessment. A meeting will be convened of all residential and multiple dwelling unit owners to discuss the proposal and approve or reject it. A 55% majority of the votes cast in person or by proxy shall be required for approval of the assessment with each residence entitled to 1 vote and each multiple dwelling unit entitled to ½ vote.

- d. **Billing of Assessments:** Assessments will be billed annually through the City and Village Tax Office. Delinquent assessments will bear an interest rate of 8% per annum from the date of the delinquency. Unpaid assessments and accumulated interest thereon will be a lien upon the property against which it is assessed and shall be applied against any funds generated upon the sale of said property.
5. **Indenture Restrictions:** All residences within the subdivision shall be subject to the following conditions and restrictions:
  - a. All buildings shall meet front and side building setback-zoning ordinances and all utility and drainage easements must be preserved.
  - b. All buildings other than the multifamily dwelling units shall be single family residences not to exceed two stories in height and with attached garages for no fewer than 2 vehicles.
  - c. They shall be constructed of such quality of workmanship and materials as existing structures and contain no less than 1,400 sq. feet on the ground floor of a single story dwelling; not less than a 1000 sq. feet on the ground floor of a 1 ½ story dwelling, and not less than 900 sq. feet on the ground floor of a 2 story dwelling.
  - d. No sign shall be erected or displayed for public view on any lot except to advertise property sale or rent. The Trustees may approve signs advertising work performed by contractors for approved projects.
  - e. No livestock or poultry except household pets maybe maintained.
  - f. No fences or screening may be erected on lots between building set back lines and the street. All fences require the written consent of the Trustees as to location, height, and material used.
  - g. No offensive activity or anything done which may become a nuisance or annoyance to others shall be carried out on any lot.

**Plats I, II, III: Residences**

**Plat IV: Common land for park and recreational faculties**