

PROTECTIVE RESTRICTIONS,
COVENANTS AND EASEMENTS
OF OLD BROOK FARM -- SECTION #5
AN ADDITION TO THE CITY OF FORT WAYNE

All the lots in said Addition shall be subject to and impressed with the restrictions, covenants and easements hereinafter set forth; and they shall be considered a part of the conveyance of any lot in said Addition without being written therein. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all lots in said addition; and they shall run with the land and shall inure to the benefit of and be enforceable by said owners by action for injunctive relief against any violations or attempted violation of the provisions hereof and/or for damages for any injuries resulting from any violation thereof; but there shall be no right of reversion or forfeiture of title resulting from such violation.

1. EASEMENTS AND UTILITY SERVICES

The land platted as Old Brook Farm, and all lots in said Addition, shall be subject to general utility easements as indicated on the plat thereof. Said easements shall be for the following purposes and subject to the following limitations:

- a) Said easements shall be for general utility services, including storm water, sanitary sewage, water, gas, electric light, telephone, and other utility services.
- b) All utility easements, as dedicated on the face of the plat, shall be kept free of all permanent structures and the removal of any obstruction by any utility company shall in no way obligate the utility company for damages or to restore the obstruction to its original form.
- c) Any structures, shrubbery, trees, or other installations, on any utility easement for sewers, shall be subject to the paramount right of the utility or sewage treatment works, to install, repair, maintain or replace its utility and sewer installation.
- d) No sanitary sewage shall, at any time, be discharged or permitted to flow into any open drain, natural water course, or storm water system. No storm water shall be discharged or permitted to flow into any sanitary sewage system.

2. BUILDING LINES

- a) No building shall be located in infringement on any of the building lines shown on the plat, nor shall any building be located within 5 feet of any side lot lines.

3. GENERAL RESTRICTIONS

- a) Each lot shall be used and occupied solely for and by a single family residence, together with necessary appurtenances, including a garden or garden house. No stable or building for the quartering of dogs or other animals shall be permitted on the premises.

- b) No single story residence building shall be erected on any lot in this addition having less than 1,350 square feet living area; no two story residence building shall be erected on any lot in this addition having less than 800 square feet – first floor living area; and no tri-level or multilevel residence shall be erected on any lot in this addition having less than 1,550 square feet living area contained therein.

- c) Any garage or carport must be attached to the residence and must be at least two-car in size.

- d) All driveways must be of macadam, cement or other similar construction.

- e) All lots upon which residence buildings are constructed shall have installed a minimum of twelve shrubs and two trees at least ten feet in height.

- f) No fences shall be constructed to the rear of the building line on any lot in this Addition to exceed forty-two inches in height. No fences shall be built in front of the building line on any lot in this Addition without the prior approval of the Architectural Control Committee provided for hereinafter.

- g) No parking or other storage of trailers, boat trailers, boats, and trucks shall be permitted on any lot in this Addition.

- h) No temporary structure, trailer, rubbish or trash or other obnoxious materials shall ever be moved on to or permitted on any lot in this Addition.

4. IMPROVEMENT LOCATION PERMIT

a) Before any lot may be used and occupied, such user or occupier shall first obtain from the applicable Building Commissioner or authority having jurisdiction, an improvement location and/or use permit, if and as required by the applicable zoning ordinance or authority. This covenant shall be enforceable by the applicable authority and/or any lot owner.

5. APPROVAL OF IMPROVEMENTS

a) No building shall be erected, placed or altered on the lots in this Addition unless the plot plan and proposed finished grades have been determined for the location of said improvements and the design and plans shall be first approved by the Architectural Control Committee. An Architectural Control Committee is hereby established consisting of Harold Palmer, Louis L. Bloom, and Howard Biggs. Any two of these three members may act on any matter submitted for approval. In the event said Architectural Control Committee fails to approve or disapprove any plot plan, design, plan, or fence location within twenty-one days after submission, approval will be deemed to have been obtained.

6. OLD BROOK FARM ASSOCIATION

a) The owners of the lots in said Addition shall be deemed to be and constitute an Association with the name Old Brook Farm Association. The owners of each lot in said Addition shall automatically be members of said Association and entitled to one joint vote for each lot or tract owned by them. Meetings of this Association may be called by member of the Association, or by the President or Secretary thereof, by written notice mailed or delivered 5 days prior to the date of such meeting, but notice of any such meeting may be waived either in writing or by waiver endorsed on the minutes of the meeting. The Association may adopt by-laws to govern the organization, meetings, election and tenure of officers and other matters. The Association shall elect a President and a Secretary-Treasurer and such other officers as it may choose and fix and determine their respective duties and authority. This Association shall have the duty and authority to take such steps as may be necessary or desirable from time to time to keep the streets, public drives, and any areas in the Addition that may be conveyed to the Association or be subject to its control, and including lights, lighting system and other matters affecting the Addition and said tract as a whole, in good repair and condition and to make improvements thereof, including authority to provide for the cutting of grass and weeds and the removal of ice and snow, and to make contracts to accomplish such purposes in the name of the Association, and to pay any taxes or charges on land or property conveyed to or owned by the Association for the use and benefit of the Addition. A proper record shall be kept by the Secretary of all action

taken by said Association and of all contracts entered into for the above purposes and of all expenses incurred in connection therewith, and at a meeting of the Association duly called for that purpose, the obligations incurred for such purposes shall be spread upon the records of the Association and an assessment entered on the books of the Association against each of the lots in said Addition in an amount equal to their pro rata share of the total amount of the expenditures so approved. If desired, the Association may levy a similar assessment on each lot in the Addition for the purpose of raising a fund in advance to enable the Association officers to defray the cost of such repairs and improvements. This Association may be incorporated as a non-profit Indiana corporation, in which event the powers and duties above set forth shall be transferred to it.

7. MAINTENANCE CHARGE LIEN

a)...The amount so assessed against each lot in said Addition and said tract shall be payable by the owners thereof to the Secretary-Treasurer of the Association within 15 days from the time that notice of such assessment has been mailed to them by the Secretary-Treasurer and each such assessment shall be and remain a lien upon the respective lots against which the assessment is made until payment thereof to the Secretary-Treasurer. All payments of assessments shall be noted on the books of the Association and, on request, the Secretary-Treasurer shall furnish to any owner of a lot in said Addition and said tract a certificate showing the assessment made upon said lot and the amount, if any, of such assessment remaining unpaid, and such certificate shall be relied upon by the lot owner and any prospective purchaser or mortgagee in purchasing or accepting mortgage upon a lot. The lien of said assessment may be foreclosed if unpaid and past due, the same as mortgages are foreclosed, without relief from valuation and appraisal laws and with reasonable attorney fees.

8. AMENDMENT

a) The above restrictions, covenants and easements may be amended at any time by the unanimous vote of the members of Old Brook Farm Association, and the provisions of any such amendments shall become effective upon the recording by the Secretary-Treasurer of said Association of a copy of the resolution making such amendments in the office of the Recorder of Allen County, Indiana.

9. ANNEXATION

a) No owner shall remonstrate against or otherwise in any way object to, or commence or otherwise be a party to, any legal proceedings to prevent any action taken by the Common Council of the City of Fort Wayne, Indiana, to annex, or otherwise incorporate within the

boundaries of said City, all or any portion of said Addition to the said City of Fort Wayne, Indiana, pursuant to an existing or future statute or other law of the State of Indiana, or otherwise.

These restriction prepared by: Louis L. Bloom, Attorney at Law