**What is a restrictive covenant?**

 A covenant is a provision in a deed, limiting the use of property and prohibiting certain uses. It is a written promise or restriction on the use of land.

**Who creates restrictive covenants?**

Land developers normally create and use restrictive covenants when subdividing property for residential developments. A developer, after platting the subdivision into lots, blocks, and streets, will often impose certain limitations on the use of the lots in the development

**Who is responsible for enforcement?**

The responsibility to enforce restrictive convents is upon the respective homeowners association or individual property owner as restrictive covenants in the county are parcel specific. Wayne Township does not enforce these private agreements.

**What is the difference between a zoning regulation and a restrictive covenant?**

A restrictive covenant differs from a zoning regulation in that the enforcement and creation of a covenant is a matter of contract and can be enforced by subdivision residents subject to the same covenants. A zoning regulation is enforced by Wayne Township. Restrictive covenants may be created in compliance with a homeowners association and respective developer’s regulations. Restrictive covenants are not governed by Wayne Township’s Zoning Ordinance.

**What are some examples of restrictive covenants?**

Restrictive covenants often stipulate the number and/or size of accessory buildings allowed per lot (e.g.no detached outbuildings larger than 10’x 14’), the minimum square footage of a home, set-back requirements, easements, and aesthetics, such as the materials used for accessory structures.

**Do restrictive covenants expire?**

Restrictive covenants “run with the land” meaning all future property owners may either enforce the covenant or be burdened by it. However, the covenant may expire over a specified period of time or renew itself automatically, dependent upon the developers original agreement and regulations.

**Can Harrison County officials issue a permit or variance to a restrictive covenant?**

Wayne Township cannot enforce property owners’ restrictive covenants, however a structure may be in conformance with the Wayne Township Zoning Code and be in violation of the restrictive covenants. In these instances, it is the responsibility of the other residents in the subdivision to enforce the covenants.

**If a restrictive covenant and a zoning regulation coincide/ overlap or disagree, which one is correct to follow?**

It is possible that zoning regulations and restrictive covenants overlap for example, in regards to the height of a building or side yard requirements. For example, in the instance of setbacks, Wayne Township may prohibit construction of a dwelling within a certain distance from a rear, side or front property line, while covenants may allow it. In this instance the zoning law prevails and the property owner would not be allowed to build within the setback specified in the Zoning Ordinance.

In an opposite scenario, for example, if the Restrictive Covenants do not allow a manufactured home in a subdivision while the Zoning Ordinance would, then the property owner could not site a manufactured home on the property. However, the other residents of the subdivision would need to bring enforcement action in civil court.

**How can I find information on restrictive covenants subject to my home or a home I am interested in buying?**

To find information on restrictive covenants for your home, the primary source of information is the Warren County Recorder’s office. The Recorder’s website also has land records online. If you need information for a home you interested in buying the primary source of information is the developer, seller, or real estate agent.