



* 2 0 0 9 1 2 0 2 2 2 9 *

2009120222

ROSEMARY BROWN

WHITLEY COUNTY RECORDER

COLUMBIA CITY, IN

\$ 28.00

TX: 10136

12/10/2009

12:10:57PM

**Easements and Protective Covenants,
Restrictions and Limitations
Part of the Plat of Longmeadow Subdivision,
An Addition in Whitley County, Indiana**

All of the lots in the plat of Longmeadow 2004060484 (hereinafter called the "Subdivision" or "Addition") shall be subject to and impressed with these easements and protective covenants, restrictions and limitations hereinafter set forth, which shall be considered a part of every conveyance of any lot or portion thereof in the subdivision without being written therein. The provisions herein contained are to the mutual benefit and protection of the owners, present and future, of the land and shall insure to the benefit of, and be enforceable by the owner or owners of any lot or lots in the subdivision and their respective legal representatives, heirs, successors, grantees and assigns. The owner or owners, present and future, of any lot or lots in the subdivision shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and damages for any injury resulting from any violation thereof, but there shall be no right or reversion, re-entry or forfeiture of title resulting from any violation.

1. DEFINITIONS--The terms hereinafter set forth shall have the following meanings:

- A) "Developer" shall mean Meadowbrook Development, LLC and successors and assigns of Meadowbrook Development, LLC.
- B) "Lot" shall mean either any of said lots as platted or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a dwelling or other structure may be erected in accordance with the restrictions hereinafter set forth.
- C) "Living Unit" shall mean any portion of a building designated and intended for use and occupancy as a residence by a single family.
- D) "Owner" shall mean and refer to the holder, whether one or more persons or entities, of the fee simple title to any lot or living unit situated in the Addition.
- E) "Lessee" shall mean and refer to a person leasing from an Owner, whether one or more persons or entities, of any living unit situated in the Addition.
- F) "Street" shall mean any street, avenue, roadway, cul-de-sac or boulevard of whatever name which is shown on the recorded plat of said Addition, and which has been heretofore and is hereby, dedicated to the public for the purpose of a public street or boulevard purposes.
- G) "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain other approvals in connection with improvements and developments.

2. USE--Each lot shall be used exclusively for residential purposes and parking spaces shall be used exclusively for the parking of residential vehicles. No dwelling shall be erected, placed or permitted to remain on any lot other than one single family dwelling.

3. **SUBSEQUENT SUBDIVIDING OF A LOT**--A lot area may not be further subdivided unless to be added to an adjacent lot one (1) time, but only one (1) building for principal use may be erected on any lot with its added addition.
4. **MINIMUM AREA**--No dwelling shall be erected or permitted on any lot having a ground floor area upon the foundation, exclusive of open porches, breezeways, carports or garage, of less than 1,800 square feet. All dwellings of more than one story, no less than 1,400 square feet on the ground floor area, but in no case shall total square feet be less than 2,000 square feet. All dwellings must have an attached (3) car or more garage, with the minimum of 750 square feet. All residences and other structures constructed or erected upon any lot shall be new construction, and in no event shall prefabricated, manufactured or modular residences or garages be erected or moved onto any lot. Any exception to the above must be approved by the Architectural Control Committee.
5. **DRIVEWAYS**--All driveways from the road to the garage shall be of hard surface, composed of concrete, brick or asphalt. At the time of occupancy, each garage shall have a concrete apron the full width of garage or garaged (inside measure) and shall extend away from garage at least 20 feet. The remainder of the drive to edge of street shall be paved within two (2) years of occupancy. All off-road parking must be confined to paved surfaces. Owner is responsible for placing appropriate sized culvert in the ditch at the end of their driveway as spelled out in the plat plan, or as required by the County Highway Department.
6. **DWELLING LOCATION**--No dwelling or structure including a fence or wall shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set-back lines shown on the recorded plat. No building shall be located nearer than a distance of twenty-five (25) feet to an interior lot line. No dwelling shall be located on any interior lot nearer than fifty (50) feet to the rear lot line. No building shall be erected within the public easements indicated on the plat. The removal of any obstructions by a utility company from a utility easement shall in no way obligate the utility company in damages or to restore said obstruction to its original form.
7. **ADDITIONAL BUILDING OR STRUCTURES**--No structure of a temporary character, trailer, boats, motor home, basement, tent, garage, or barn, shall be either used or located on any lot or used as a residence either temporarily or permanently. Variations from above with approval from the Architectural Control Committee.
8. **FENCES**--No wire, metal, or chain link fences will be permitted on any lot except those already in existence at time of initial lot sale. Any other fence material requires

approval by the Architectural Control Committee. No fences shall be constructed on any lot in said addition nearer to front property line thereof than the building line as set for in the plat of said addition, or the front of the house, whichever is greatest, but this restriction shall not prevent the planting of shrubbery or hedges for ornamental and decorative purposes.

9. **NUISANCES**--No use shall be permitted, which is offensive by reason of odor, fumes, dust, smoke, noise or pollution of which constitutes a nuisance, or which is hazardous by reason of fire, explosion or is in violation of any federal, state or local laws. No lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except that dogs, cats or other quiet household pets may be kept, providing the same are not kept, bred or maintained for any commercial purpose. No above or below ground fuel or storage tanks shall be permitted. No radio or television antenna or satellite receiver bigger than 18 inches in diameter, no solar panels or similar structures, shall be allowed on any lot or attached to an residential structure, located on any lot unless specifically approved by the Architectural Control Committee. No above ground swimming pools will be permitted. Hot tubs may be allowed with Architectural Control Committee approval. No unlicensed, unregistered or inoperable automobiles or motorized vehicles may be parked or maintained on any lot, but instead, shall be equipped at all times for on-road driving. No off-road vehicles, snowmobiles, etc. will be allowed, unless stored inside. No temporary structures of any kind shall be erected or placed on any lot and in no instance shall more than one dwelling or residence be erected or placed upon any lot as the same is shown on the plat. Each residential structure erected on any lot shall be designed, intended, and used as a residence for a single family only. No structure of a temporary character, trailer, boat, camper, camping trailer, mobile home, travel trailer, motor home, basement, tent, garage, barn, tool shed, or other outbuildings shall be used or located on any lot as a residence, either temporarily or permanently. No truck (rated one ton or more), commercial vehicle, boat, boat trailer, recreational vehicle, motor home, truck camper, snowmobile, or other wheeled or motorized vehicle shall be permitted to be parked outside of a garage on any lot for periods in excess of 48 hours, or for more than 8 days per calendar year. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and shall be kept clean and sanitary (except during that time of new construction or remodeling). No trade or commercial activity may be performed or conducted on any lot at any time.

10. **LANDSCAPING AND MASONRY**--Within 60 days after the completion of the construction of the dwelling, or as soon thereafter as weather conditions permit, each lot shall be landscaped, with a minimum of 4 trees, 2 of which shall be 2.5 inches diameter hardwood trees, and 10 shrubs located on the front yard. The front elevation

of each home must be at least 66% of all natural materials (brick, stone, wood) in any variation, and must be approved by the Architectural Control Committee. Any exception to these requirements must be approved by the Architectural Control Committee.

11. APPROVAL OF IMPROVEMENTS BY ARCHITECTURAL CONTROL COMMITTEE

--In order to maintain harmonious structural design and lot grades, no dwelling or improvements shall be erected, or altered on any lot (and construction shall not be commenced) until the construction plans and specification and a site plan showing the location of the structure on said lot and grade elevations, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be comprised of three Members, to be designated by the Developer initially. The developer shall have the right at such times as it may elect, to relinquish its right to designate the members of the Architectural Control Committee to the lot owners. Two sets of plans of each improvement, with detailed, front, side, and rear elevations and floor plans, showing square footage and grade elevations, shall be submitted to the Architectural Control Committee at the developer's office or such other place as may be designated. The committee's approval or disapproval of said plans shall be in writing. In the event the committee or its designated representative shall fail to approve or disapprove said plan within 30 days after all necessary instruments, documents and other information have been submitted, then the approval to the request as submitted shall be deemed to have been given. The improvements as shown upon the plans shall be substantially completed before said building shall be used or occupied as a dwelling. All improvements shall be constructed in accordance with the plans and specifications as approved by the Architectural Control Committee, and any improvements not so constructed shall be subject to immediate removal at owner's expense. The Committee shall not be responsible for any structural defects in such plans or specifications or any building or structure erected according to them, nor shall it be responsible for any mistaken judgment or negligence arising out of, or relating to, the approval or disapproval, or failure to approve, any plans so submitted. In addition, before any lot may be used or occupied, said user or occupier shall first obtain the improvement permit and certificate of occupancy required by the Whitley County Plan Commission.

12. YARD LIGHTS--Each dwelling owner will cause an automatically controlled yard light or other illumination device to be installed in the front yard. Such yard lights or illuminating devices will be of such design and construction as shall be approved by the Architectural Control Committee. Said committee shall have the authority to approve a change on the location of said yard light or illuminating device.

13. EASEMENTS—Easements are hereby expressly reserved and dedicated with dimensions, boundaries, and locations as designated on the attached plat for the installation and maintenance of public utilities (including, but not limited to, water, gas, telephone, electricity, cable T.V, and any or other utilities of a public or quasi-public nature) and sewer drainage facilities.

A) Any utility company and the developer, their successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of permanent structures except improvements installed by an authorized utility and removal of any obstruction by the utility company shall in no way obligate the company to restore the obligation to its original form. The utility will restore any improvements installed by an authorized utility.

B) No building or structure located in the Addition shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables, or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Addition, and except for such housings, pedestals or facilities as may be appropriate for connection of utility services for individual lot owners). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.

14. USE OF SIGNS—Other than one (1) sign on each property giving address and owner's name (if they so desire) having a total face area of not more that two (2) square feet, no sign or any kind shall be permitted or erected, except subdivision designation and information signs. There are two exceptions, i.e., one professional sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by the developer/builder to advertise the property during the construction and sales period will be allowed.

15. DURING CONSTRUCTION

- A. Buyer agrees to repair any field tile that may be damaged by or during Construction of a dwelling on the Real Estate.
- B. Buyer agrees no basement drains or other drainage tile shall be directly connected to any field tile on the Real Estate or in Longmeadow Subdivision.
- C. Buyer shall inform and instruct all contractors and subcontractors constructing or working on any dwelling located on the Real Estate to offload and load equipment on the Real Estate rather than on any roadway in Longmeadow Subdivision and Buyer agrees to repair any damage resulting from a violation of this provision or to reimburse Seller the cost of any such repairs.

16. POND AND COMMON AREAS

Owners of Lots in the Subdivision shall have the privilege of using the pond platted as part of the Subdivision. The pond shall be for the exclusive use of Owners and invitees of Lots in the Subdivision. The Developer and/or the Association may impose reasonable rules and regulations concerning the use of the pond. No motorized watercraft or vehicles shall be permitted on the pond. Further, no piers, docks or other structures will be permitted on the pond other than piers that have been approved by the Architectural Control committee, the materials, color and size of which shall be compatible.

There is a twenty foot pedestrian and maintenance easement immediately surrounding the pond and the east 10 feet of lots 21, 22 and 23 and the west 10 feet of lots 20 and 24. This provides non-pond lot owners with access to the pond. Once any lots in the Subdivision are sold by the Developer to private owners, these private owners have access to the pond and share in the cost of any pond maintenance. While all lot owners and invitees have access to the pond, it is at their own risk. The Developer assumes no liability for the pond's use.

17. **COMMUNITY ASSOCIATION**--When requested by the majority of owners, the developer may cause to be incorporated The Longmeadow Association, Inc., a not-for-profit association.
18. **MEMBERSHIP TRANSFER**--Association membership will transfer from the developer to its grantee upon delivery of the deed.
19. **CONTINUING MEMBERSHIP**--The purchaser of any lot in the addition shall be a member of said association and shall be a member of the association so long as he continues to be an owner of a lot in the addition. For the purpose herein mentioned, membership shall pass with the ownership of the land.
20. **ASSESSMENTS**--Each owner of any lot, by acceptance of a deed thereof, whether or not it shall be expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the association the maintenance fund assessments and charges, as hereinafter provided. All unsold lots owned by the developer will not be assessed until transfer of same by deed from the developer to the homeowner.
21. **MAINTENANCE FUND**--The maintenance fund assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the addition, and in particular for the improvements and maintenance of all common areas, including but not limited to, repair, maintenance and pond maintenance, the cost of labor, equipment and materials, lighting, lawn care, snow removal, insurance, taxes, and all other things necessary or desirable in the opinion of the members of the association in connection therewith. Each lot not built upon will

be assessed an annual mowing fee. The board of directors of the association shall establish a budget for each calendar year and shall determine the annual assessment required to meet said budget. Such budget and assessment for each such calendar year shall be established by the board of directors at a meeting to be held not later than October 31 of each preceding calendar year. The board of directors shall then mail to all association members a copy of said budget and notice of the ensuing year assessment, not later than November 15 of the year prior to the year in which the assessment is applicable. The amount of the assessment set by the board of directors for any such calendar year may be changed by the members of the association at a meeting duly called for the purpose as hereinafter provided. Upon receipt of a written petition for a review of such assessment bearing the signatures of at least twenty percent (20%) of the members of the association prior to November 30, the president or secretary of the association shall call a meeting of the membership of the association to be held prior to December 31 of the year prior to the year to which the assessment is applicable. The president and secretary of the association shall give at least fifteen (15) days' written notice of such meeting to all members. And changes so adopted in the amount of the assessment set by the board of directors must have the assent of two-thirds (2/3) of the membership of the association who are voting in person or by proxy at a meeting

duly called for such purpose. At any meeting, a quorum of not less than fifty percent (50%) of all membership shall be required.

22. COLLECTION—Such maintenance fee assessment, together with interest thereon and costs of all collections as hereafter provided shall be a lien upon the property against which each assessment is made. Each assessment, together with interest thereon and costs of collection, shall be the personal obligation of the person who was the owner of such property at the time the assessment fell due. The obligation of the assessment is upon the owner of the lot and is not transferred even though the owner may have transferred the membership and voting rights to the community association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the lot of the not-paying owner which shall bind such lot in the hands of the then owner, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the then owner to

pay such assessments shall remain a personal obligation and shall not pass to his successors in the title unless expressly assumed by them. The lien for unpaid assessments shall be unaffected by any sale or assignment of a lot and shall continue in full force and effect. If the assessment is not paid within sixty (60) days, after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight

percent (8%) per annum, and the association may bring an action against the owner personally obligated to pay the same or foreclose the lien against the lot, and there will be added to the amount of such assessment the costs of preparing and filing such action. The lien of the assessment as provided for herein shall be subordinated to the lien of any mortgage, now or hereafter placed upon the lot, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale, whether public or private, of such property pursuant to the terms and conditions of such mortgage. Such sale shall not relieve such lots from liability for the amount of any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

23. DURATION AND ALTERATION—The protective covenants, restrictions, and limitation shall be binding upon all owners and lessees of land in said addition and all persons claiming under them. They shall continue in existence for a period of twenty-five (25) years from the date of recording hereof and thereafter shall be automatically extended for successive periods of ten years each. The protective covenants, restrictions, and limitations (but not the easements) may be changed or

altered in part by written instrument signed by the owners of no less than sixty-five percent (65%) of the lots after all lots in the subdivision have been sold by the developer, and may be unilaterally changed, altered, or amended by the developer within ninety (90) months from the date of recording hereof. All said amendments,

changes, or alterations, however, shall have the prior approval of the Whitley County Plan Commission or its successors.

24. WAIVER—The failure of either the developer or an owner to enforce any covenant contained herein, or right arising from any covenant contained herein, shall in no case be deemed a waiver of that right or covenant.

25. SEVERABILITY—Invalidation of any of these provisions shall in no way affect any of the other provisions which shall remain in full force and effect.

26. RESTRICTIONS SEPARATELY ENFORCED—Invalidation of any of these covenants by judgment or court order shall in no way affect the other provisions, which shall remain in full force and effect.

27. ENFORCEMENT—Enforcement shall be by proceedings at law or in equity against any person, or persons, violating or attempting to violate any covenants, either to restrain violation or to recover damages. These covenants shall run with the land and

be enforceable by Whitley County, State of Indiana, or by any aggrieved lot owner in this subdivision.

28. **NOTICE**--Owners of said lots and their successors in title are on notice and understand that this subdivision is in a predominately agricultural area and that farming operations, to include livestock operations, will be practiced in the area of this subdivision. With this understanding all owners of the lots in this subdivision forego their right to bring claim against any farmer in the area who is practicing normal, reasonable and necessary farming and livestock operations.

28. These Protective Covenants and Limitations shall apply to Longmeadow Subdivision.

IN WITNESS WHEREOF, _____ has caused this document to be executed this _____ day of _____, 2009.

Meadowbrook Development, LLC