

**FIRST AMENDED DEDICATION, PROTECTIVE
RESTRICTIONS, COVENANTS, LIMITATIONS,
EASEMENTS AND APPROVALS APPENDED TO THE
PLAT OF HOLLY RIDGE, SECTIONS I and II, A
SUBDIVISION IN PERRY TOWNSHIP, ALLEN
COUNTY, INDIANA**



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01/05/2010 08:58:25AM
JOHN MCGAULEY
ALLEN COUNTY RECORDER
FORT WAYNE, IN

REC FEE: 26.00
TRANS # 80898

PREFACE

North Eastern Construction Co., Inc., an Indiana corporation, caused the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to the Plat of Holly Ridge, Section I, to be recorded in the Office of the Recorder of Allen County, Indiana, on August 26, 1993, as Document Number 93-049094 ("Section I Covenants").

North Eastern Construction Co., Inc., an Indiana corporation, caused the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to the Plat of Holly Ridge, Section II, to be recorded in the Office of the Recorder of Allen County, Indiana, on May 23, 1994, as Document Number 94-031652 ("Section II Covenants").

The Lots in Holly Ridge Section I and Holly Ridge Section II, Numbered 1 through 96 inclusive, have all been improved with residential structures and are owned by Owners other than Northeastern Construction Co., Inc., an Indiana corporation.

In accordance with Sections 6.26.1 and 6.26.4 of the Section I Covenants and Sections 6.26.1 and 6.26.4 of the Section II Covenants, 75% of the Owners of the Lots in Holly Ridge Section I and Holly Ridge Section II have executed an amendatory document to delete the Section I Covenants and Section II Covenants in their entirety and replace them with this document and the restrictions, limitations and covenants imposed under it.

The Lots of Holly Ridge Section I and Holly Ridge Section II are shown in feet and decimals of a foot on the Plat of the same, heretofore recorded in the Office of the Recorder of Allen County, Indiana. All streets and easements specifically shown or described are expressly dedicated to public use for the usual and intended purposes.

Each Owner of a Lot in Holly Ridge Section I and Holly Ridge Section II shall be bound by the restrictions, limitations and covenants imposed under this document.

In addition to the prior recording of the Plat of Holly Ridge Section I and Holly Ridge Section II, as aforesaid, there have been recorded Articles of Incorporation of Holly Ridge Community Association, Inc., in the Office of the Recorder of Allen County, Indiana, and each Owner of a Lot in said subdivisions shall become a member of said association and be bound by its Articles of Incorporation and By Laws.

Section 1. DEFINITIONS. The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

1.1 "Articles". The articles of incorporation adopted by the Association and approved by the Indiana Secretary of State, and all amendments to those articles.

1.2 "Association". Holly Ridge Community Association, Inc., an Indiana nonprofit corporation, and its successors and assigns.

1.3 "Board of Directors". The duly elected board of directors of the Association.

1.4 "Bylaws". The bylaws adopted by Holly Ridge Community Association, Inc., and all amendments to those bylaws.

1.5 "Committee". The Architectural Control Committee established under section 5 of the Covenants.

1.6 "Common Area". All real property owned by the Association for the common use and enjoyment of Owners. Common Area is designated Block A, B, C, D on the face of the plat.

1.7 "Covenants". This document and the restrictions, limitations and covenants imposed under it.

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1.8 "Developer". North Eastern Construction Co., Inc., an Indiana corporation, and its assigns and successors in interest in the Real Estate.

1.9 "Lot", and in plural form, "Lots". Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which a residence is erected in accordance with the Covenants, or such further restrictions as may be imposed by any applicable zoning ordinance; provided, however, that no tract of land consisting of part of Lot, or parts of more than one Lot, shall be considered a "Lot" under these covenants unless the tract has a frontage of at least 70 feet in width at the established front building line as shown on the Plat.

1.10 "Owner", and in the plural form, "Owners". The record owner(s) (whether one or more persons or entities) of fee simple title to the Lots, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

1.11 "Plan Commission". The Allen County Plan Commission, or its successor agency.

1.12 "Plat". The recorded secondary plat of Holly Ridge, Section I and II.

1.13 "Preserved Area". The wetlands preservation area designated as a "Preserved Area" within Block A on the face of the Plat.

1.14 "Subdivision". The platted Subdivision of Holly Ridge, Sections I and II.

Section 2. PROPERTY RIGHTS.

2.1 Owners' Easements of Enjoyment. Each Owner shall have the right and an easement of enjoyment in the Common Area that is appurtenant to and passes with the title to every Lot, subject to the following rights which are granted to the Association.

2.1.1 To charge reasonable admission and other fees for the use of any recreational facility located in the Common Area.

2.1.2 To suspend the voting rights and right to the use of the recreational facilities in the Common Area for any period during which any assessment against an Owner's Lot remains unpaid, or an Owner is in violation of the Covenants, the Articles, the Bylaws, or any published rule of the Association.

2.1.3. To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association's members. No such dedication or transfer shall be effective unless an instrument signed by at least-two-thirds of Association members agreeing to such dedication or transfer, is recorded.

2.2 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, the Owner's right to use and enjoy the Common Area and recreational facilities in it, to members of the Owner's family, and tenants or contract purchasers who reside on the Owner's Lot.

Section 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Membership consists of all Owners. Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as its Owners among themselves determine; but in no event shall more than one vote be cast with respect to a Lot.

Section 4. Covenants for Maintenance Assessments

4.1 Creation Of The Lien And Personal Obligation Of Assessments. Each Owner, by acceptance of the deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special

assessments for capital improvements. Such assessments to be established and collected as provided in these Covenants and the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivision, and for the improvement of facilities in the Subdivision. In addition, assessments shall be levied to provide for the proportionate burden of the maintenance of the common impoundment basin into which the Subdivision's surface waters drain.

4.3 Maximum Annual Assessments. Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessments shall be Eighty Five Dollars (\$85.00) per Lot. Subsequent assessments may be made as follows:

4.3.1 From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than 8% above the annual assessment for the previous year, without a vote of the membership.

4.3.2 From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased by a percentage in excess of 8% , only by the vote or written assent of a majority of members of the Association.

4.4 Special Assessments For Capital Improvements. In addition to the annual assessments authorized in Section 4.3, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement in the Common Area, including fixtures and related personal property; provided that any such assessment shall require the vote or written assent of 55% of members of the Association; and provided, further, that no such special assessment for any such purpose shall be made if the assessment in any way jeopardizes or affects the Association's ability to improve and maintain the Common Area, or pay its pro rata share of the cost of maintaining the common impoundment basin.

4.5 Notice and Quorum For Any Action Authorized Under Subsections 4.3 and 4.4. Any action authorized under Sections 4.3.2 and 4.4 shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than 30 days, nor more than 60 days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such a vote is less than the requisite percentage of members, members who are not present in person or by proxy may give their assent in writing, provided the same is obtained by an officer of the Association within 30 days of the date of such meeting.

4.6 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, and may be collected on a monthly or yearly basis.

4.7 Date of Commencement of Annual Assessments/Due Dates. The annual assessments allowed under Section 4.3 shall commence as to all Lots then subject to an assessment, on the first day of the month following the first conveyance of a Lot by Developer. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each Lot at least 30 days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

4.8 Effect of Nonpayment of Assessments/Remedies of the Association.

4.8.1 Any assessment not paid within 30 days after its due date shall bear interest from the due dates at the rate of 12% per annum, or at the legal rate of interest in Indiana, whichever is higher.

4.8.2 The Association may bring an action at law against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or

otherwise escape liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be foreclosed in the same manner as mortgages are foreclosed in Indiana. The Association shall also be entitled to recover the reasonable attorney fees, costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section 4.

4.9 Subordination of Assessment Lien to First Mortgage Liens. The lien of the assessments made under the Covenants shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien against it. No sale or transfer shall relieve an Owner or Lot from liability for any assessment subsequently becoming due, or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

Section 5 Architectural Control

5.1 No building, fence, wall, in-ground swimming pool, or other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition, change, or alteration be made to a structure on a Lot until the plans and specifications showing the structure's nature, kind, shape, height, materials and location are submitted to and approved by the Committee in writing as to the structure's harmony of external design and location in relation to surrounding structures and topography in the Subdivision. The Committee shall be composed of three members, the first committee members to be: Joseph L. Zehr, Cathy A. Zehr and Orrin R. Sessions. A majority of the Committee may appoint a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to appoint a successor.

5.2 The Committee shall have the exclusive authority and responsibility to review plans for construction of all primary residences in the Subdivision. The Committee may delegate to the Board of Directors (or to such other entity designated in the Articles or Bylaws) the authority and responsibility to review plans for construction of fences and other structures (excluding primary dwellings) in the Subdivision. Such delegation shall be made in writing, signed by majority of the Committee members, and delivered or mailed to the Association's registered office.

5.3 After primary residences are constructed on all Lots in the Subdivision, the Board of Directors (or other entity designated under its Articles or Bylaws) shall succeed in the committee's responsibilities under this Section 5 to review subsequent construction, modifications and additions of structures in the Subdivision.

5.4 In the event the Committee (or Board of Directors or other entity acting under Sections 5.2 or 5.3) fails to approve or disapprove the design and location of a proposed structure within 30 days after said plans and specifications have been submitted to it, approval will not be required, and approval under this Section 5 will be deemed to have been given.

Section 6. GENERAL PROVISIONS

6.1 Use. Lots may not be used except for single-family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half stories in height. Each residence shall include not less than a two-car garage, which shall be built as part of the residence and attached to it.

6.2 Dwelling Size. No residence shall be built on a Lot having a ground floor area upon the foundation exclusive of one-story open porches, breezeways or garages, of less than 1,400 square feet for a one-story residence, or less than 1,800 square feet of total living area excluding one-story open porches, breezeways and garages for a residence that has more than one story.

6.3 Building Lines. No structure shall be located on a Lot nearer to the front Lot line, or nearer to the side street line than the minimum building setback lines shown on the Plat. In any event, no structure shall be located nearer than a distance of 7 feet to an interior Lot line. No residence shall be located on an interior Lot nearer than 25 feet to the rear Lot line for Lots 1 through 47 and 51 through 96 and 15 feet from the rear line of Lots 48 through 50.

6.4 Minimum Lot Size. No residence shall be erected or placed on a Lot having a width of

less than 70 feet at the minimum building setback line, nor shall any residence be erected or placed on any Lot having an area of less than 7,500 square feet.

6.5 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and over the rear 10 feet of each Lot. No Owner shall erect on a Lot, or grant to any person, firm or corporation the right, license, or privilege to erect or use, or permit the use of, overhead wires, poles or overhead facilities of any kind for electrical telephone or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing in these Covenants shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any residence or other structure on a Lot connecting it to the electrical distribution system of any electric public utility shall be provided by the Owner of the Lot who constructs the residence or structure, and shall carry not less than 3 wires and have a capacity of not less than 200 amperes. Any public utility charged with the maintenance of underground installations shall have access to all easements in which said installations are located for operation, maintenance and replacement of service connections.

6.6 Surface Drainage Easements. Surface drainage easements and Common Area used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the surface of such real estate shall be constructed and maintained in an unobstructed condition, and the County Surveyor (or proper public authority having jurisdiction over storm drainage) shall have the right to determine if any obstruction exists, and to repair and maintain, or require such repair and maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

6.7 Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done there which may be or become an annoyance or nuisance to residents in the Subdivision.

6.8 Temporary Structures. No structure of a temporary character, trailer, boat trailer, camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be constructed, erected, located or used on any Lot for any purpose (including use as a residence), either temporarily or permanently; provided, however, that basements may be constructed in connection with the construction and use of a single-family residence building.

6.9 Outside Storage. No boat, boat trailer, recreational vehicle, motor home, truck, camper or any other wheeled vehicle shall be permitted to be parked ungaraged on a Lot for periods in excess of 48 hours, or for a period of which is in the aggregate is in excess of 8 days per calendar year. The term "truck" as used in this Section 6.9 means every motor vehicle designed, used, or maintained primarily for the transportation of property, which is rated one-ton or more.

6.10 Free-Standing Poles. No clotheslines or clothes poles, or any other free standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, shall be constructed, erected, or located or used on a Lot.

6.11 Signs. No sign of any kind shall be displayed to the public view on a Lot except one professional sign of not more than one square foot, or one sign of not more than five square feet, advertising a Lot for sale or rent, or signs used by a builder to advertise a Lot during the construction and sales periods.

6.12 Antennas. No radio or television antenna with more than 30 square feet of grid area, or that attains a height in excess of 6 feet above the highest point of the roof of a residence, shall be attached to a residence on a Lot. No free-standing radio or television antenna, or satellite receiving disk or dish shall be permitted on a Lot. No solar panels (attached, detached or free-standing) are permitted on a Lot.

6.13 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on or in a Lot. No derrick or other structure for boring for oil or natural gas shall be erected, maintained or permitted on a Lot.

6.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on a

Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

6.15 Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. No incinerators shall be kept or allowed on a Lot.

6.16 Workmanship. All structures on a Lot shall be constructed in a substantial, good and workmanlike manner and of new materials. No roof siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any structure on a Lot, and no roll roofing of any description or character shall be used on the roof of any residence or attached garage on a Lot.

6.17 Driveways. All driveways on Lots from the street to the garage shall be poured concrete and not less than 16 feet in width.

6.18 Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained or used on a Lot in the Subdivision.

6.19 Street Utility Easements. In addition to the utility easements designated in this document, easements in the streets, as shown on the Plat, are reserved and granted to all public utility companies, the Owners of the Real Estate and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove every type of gas main, water main and sewer main (sanitary and storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction over the Subdivision as to maintenance and repair of said streets.

6.20 Storm Water Runoff. No rain and storm water runoff or such things as roof water, street pavement and surface water caused by natural precipitation, shall any time be discharged or permitted to flow into the sanitary sewer system serving the subdivision, which shall be a separate sewer system from the storm water and surface water runoff sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the Subdivision's storm and surface water runoff sewer system.

6.21 Completion of Infrastructure. Before any residence on a Lot shall be used and occupied as such, the Developer, or any subsequent Owner of a Lot, shall install all infrastructure improvements serving the Lot as shown on the approved plans and specifications for the Subdivision filed with the Plan Commission and other governmental agencies having jurisdiction over the Subdivision. This covenant shall run with the land and be enforceable by the Plan Commission or by any aggrieved Owner.

6.22 Certificate of Occupancy. Before a Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator the improvement location permit and certificate of occupancy required by the Allen County Zoning Ordinance.

6.23 Enforcement. The Association, Developer and any Owner (individually or collectively) shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or subsequently imposed by the provisions of these Covenants. Failure by the Association, Developer or an Owner to enforce any provisions in the Covenants shall in no event be deemed a waiver of the right to do so later.

6.24 Invalidation. Invalidation of any one of these Covenants by judgment or court order shall not affect the remaining provisions, and such provisions shall remain in full force and effect.

6.25 Duration of Covenants. These Covenants shall run with the land and be effective for a period of 20 years from the date the Plat and these Covenants are recorded; after which time the Covenants shall automatically be renewed for successive periods of 10 years.

6.26 Amendments. Any provision of these Covenants may be amended, but such amendment is subject to the following requirements and limitations:

6.26.1 After primary residences are constructed on all Lots of the Subdivision and certificates of occupancy are issued for such residences, in order to amend the provisions of these Covenants, an amendatory document must be signed by the Owners of at least 55% of the Lots in the Subdivision.

6.26.2 In order for any amendment of these Covenants to be effective, the approval of the Plan Commission shall be required.

6.26.3 Notwithstanding the provisions in sections 6.26.1 through 6.26.3, the covenants in Section 10 may not be amended without the express written consent or approval of the U.S. Army Corps of Engineers or its successor(s).

6.27 Subdivision. No Lot or combination of Lots may be further subdivided until approval for such subdivision has been obtained from the Plan Commission and the effect of such subdivision does not result in the creation of a "Lot" which violates limitations imposed under Section 1.9.

Section 7. Attorney Fees and Related Expenses. In the event the Association, Developer, an Owner, or the Plan Commission is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the provisions of these Covenants, the successful party shall be entitled to recover from the party against whom the proceeding was brought, the reasonable attorney fees and related costs and expenses incurred in such a proceeding.

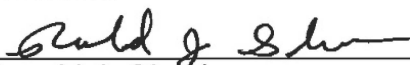
Section 8. Sidewalks. Plans and specifications for the Subdivision approved by and filed with the Plan Commission require installation of concrete sidewalks within the street rights-of-way in front of Lots 1 through 5, 11 through 26, 42 and 43, 48 through 50, 52 through 56, 67 through 79, 89 and 90 as shown on the approved plans. Installation of such sidewalks shall be the obligation of the Owners of these Lots (exclusive of Developer). The sidewalk to be located on a Lot shall be completed in accordance with such plans and specifications prior to the issuance of a certificate of occupancy for such a Lot. A violation of this Covenant is enforceable by the Plan Commission or its successor agency, by specific performance or other appropriate legal or equitable remedy.

Section 9. Flood Protection Grades. In order to minimize potential damage to residences from surface water, minimum flood protection grades are established of 852.0 feet Mean Sea Level for Lots 6, 7, 15 through 26, 48 through 51, 853.5 feet for Lots 34 and 35, and 849.5 feet for Lots 36 through 39. All residences on such Lots shall be constructed so that the minimum elevation of the first floor, or the minimum sill elevation of any opening below the first floor, equals or exceeds the applicable minimum flood protection grades established in this section 9.

Section 10. Wetlands Preservation. Developer declares and further covenants that the Preserved Area shall not be altered, modified, or developed in any way, including but not limited to, the discharge of dredged or fill material on the Preserved Area, and that the vegetation, soils, and hydrology of the Preserved Area shall remain in an unaltered, natural condition following completion of compensatory mitigation. The covenants in this Section 10 shall be perpetual (unless amended pursuant to section 6.26.5), shall run with the land, and shall be binding upon Developer, the Association, all Owners, and their legal representatives, successors, and assigns.

The undersigned, the President of the Holly Ridge Community Association, Inc., represent and warrant that the Owners of at least 75% of the Lots in Holly Ridge Section I and Holly Ridge Section II have executed an amendatory document which provides, in part, that the Section I Covenants and the Section II Covenants are to be deleted in their entirety and replaced with this document.

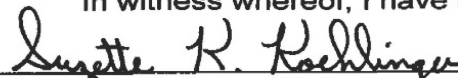
President


Ronald J. Glumb

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said State and County, on this 19th day of November, 2009, personally appeared Ronald J. Glumb, the President of Holly Ridge Community Association, Inc., and acknowledged the execution of the foregoing document.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.


Suzette K. Koehlinger

My commission expires: 10/27/16
Resident of Allen County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Thomas M. Gallmeyer

Prepared by: Thomas M. Gallmeyer, #7033-02, Hawk, Haynie, Kammeyer & Chickedantz, LLP, 116 East Berry Street, Suite 116, Fort Wayne, Indiana 46802. Return to:

