

RESTRICTIONS, COVENANTS,
LIMITATIONS, EASEMENTS AND APPROVALS APPENDED
OF THE PLAT OF THRESHER RIDGE, A SUBDIVISION IN
SMITH TOWNSHIP, WHITLEY COUNTY, INDIANA

Thresher Ridge, L.L.P., declares that they are the owner of the real estate shown and legally described in this plat ("Real Estate"), and lays off, plats and subdivides the Real Estate in accordance with the information shown on the certified plat attached to and incorporated by reference in this document. The platted Subdivision shall be known and designated as Thresher Ridge, a Subdivision in Smith Township, Whitley County, Indiana.

The lots are numbered from 1 through 39, inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are expressly dedicated to public use for their usual and intended purposes.

PREFACE

In addition to the recordation of the Plat of and this document, there will be recorded articles of incorporation of Thresher Ridge Community Association, Inc., it being Developer's intention that each Owner of a lot in Thresher Ridge will become a member of said association, and be bound by its articles of incorporation and bylaws.

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 by the Association and approved by the Indiana Secretary of State, and all amendments to those articles.
- 1.2 **"Association"**. Ralph Biggs, and the successors and assigns.
- 1.3 **"Board of Directors"**. The duly elected board of directors of the Association.
- 1.4 **"Bylaws"**. The Bylaws adopted by Thresher Ridge, and all amendments to those Bylaws.
- 1.5 **"Committee"**. The Architectural Control Committee established under Section 5 of the Covenants.
- 1.6 **"Covenants"**. This document and the restrictions, limitations and covenants imposed under it.
- 1.7 **"Developer"**. Ralph Biggs, President of Thresher Ridge, L.L.P., and the assigns and successors in interest in the Real Estate.
- 1.8 **"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 60 feet in width at the established front building line as shown on the Plat.

CONNIE H. TEGTMEYER
WHITLEY COUNTY RECORDER

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OWNER. 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.

1.10 "Plan Commission". The Churubusco Plan Commission, or its successor agency.

1.11 "Plat". The recorded secondary plat of Thresher Ridge.

1.12 "Subdivision". The platted Subdivision of Thresher Ridge.

SECTION 2. *MEMBERSHIP AND VOTING RIGHTS*

2.1 Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

2.2 The Association shall have the following two classes of voting memberships:

2.2.1 Class A. Class A membership consists of all Owners, except Developer. Class A 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.

2.2.2 Class B. Class B membership consists of Developer. The Class B member shall be entitled to 2 votes per lot less that number of votes which Class A members are entitled to exercise. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

2.2.2.1 When fee simple title to all Lots have been conveyed by Developer; or

2.2.2.2 On December 31, 2003.

SECTION 3. *COVENANT FOR MAINTENANCE ASSESSMENTS*

3.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner, except Developer, by acceptance of a 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.

3.2 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.

3.3 Maximum Annual Assessments. Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessment

as follows: (120.00) per Lot. Subsequent assessments may be made

3.3.1 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.

3.3.2 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 each class of members of the Association.

3.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Section 3.3, 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 belonging to the Thresher Ridge Association, including fixtures and related personal property; provided that any such assessment shall require the vote or written assent of 75% of each class 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 Communal Property, or pay its pro rata share of the cost of maintaining the common impoundment basin.

3.5 Notice and Quorum for Any Action Authorized Under Subsections 3.3 and 3.4.

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 vote is less than the requisite percentage of each class of members, members who were 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.

3.6 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.

3.7 Date of Commencement of Annual Assessment/s 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 pro rated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment 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 a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

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

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

3.8.2 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 abandonment of a Lot. The lien for

... may be foreclosed in the same manner as mortgages are foreclosed in Indiana. The Association shall also be entitled to recover the attorney fees, cost and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section 3.

3.9 Subordination of Assessment Lien to First Mortgages 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 4. ARCHITECTURAL CONTROL.

4.1 No building, fence, wall, in-ground swimming pool or above-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 one member, the first Committee member to be Ralph Biggs.

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.

4.2 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 a majority of the Committee members, and delivered or mailed to the Association's registered office.

4.3 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 to the Committee's responsibilities under this Section 4 to review subsequent construction, modifications and additions of structures in the Subdivision.

4.4 In the event the Committee (or Board of Directors or other entity acting under Sections 4.2 or 4.3), 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 4 will be deemed to have been given.

SECTION 5. GENERAL PROVISIONS

5.1 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.

5.2 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 1,200 square feet of total living area (excluding one-story open porches, breezeways and garages) for a single story. A cape cod or two-story shall not have less than 900 square feet on the first floor.

5.3 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

of 10 feet to an interior Lot line. No dwelling shall be located nearer than a distance than 15 feet to the rear Lot line.

5.4 Minimum Lot Size. No residence shall be erected or placed on a Lot having a width of less than 60 feet at the minimum building setback line, nor shall any residence be erected or placed on any Lot having an area of less than 10,000 square feet.

5.5 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and over the rear 7.5 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.

5.6 Surface Drainage Easements. Surface drainage easements 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 the Real Estate shall be constructed and maintained so as to achieve this intention. Such easements shall be 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.

5.7 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.

5.8 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.

5.9 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 in excess of 8 days per calendar year. The term "truck" as used in this Section 5.9 means every motor vehicle designed, used, or maintained primarily for the transportation of property, which is rated one ton or more.

5.10 Free-Standing Poles. No clothes lines or clothes poles, or any other free-standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, with the exception of a flag pole displaying the United States flag, shall be constructed, erected, located or used on a lot.

5.11 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

...ing a Lot for sale or rent, or signs used by a builder to advertise a Lot during the construction and sales period.

5.12 Antennas. No radio or television antenna shall be attached to a residence on a Lot. No free-standing radio or television antennas shall be permitted on a Lot. No solar panels or satellite receiving disk or dish greater than 18 inches in diameter (attached, detached, or free-standing) are permitted on a Lot.

5.13 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.

5.14 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.

5.15 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.

5.16 Driveways. All driveways on Lots from the street to the garage shall be poured concrete and not less than 12 feet in width.

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

5.18 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.

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

5.20 Completion of Infrastructure. Before any residence on a Lot shall be used and occupied as such, the Developer, or any subsequent Owner of the 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.

5.21 Certificate of Compliance. Before a Lot may be used or occupied, such user or occupier shall first obtain from the Whitley County Planning & Building Development the Occupancy Permit.

5.22 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.

5.23 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.

5.24 Duration of Covenants. These Covenants shall run with the land and be effective for a period of 5 years from the date of the Plat and these Covenants are recorded; after which time the Covenants shall automatically be renewed for successive periods of 10 years.

5.25.1 After primary residences are constructed on all Lots in the Subdivision and Certificates of Occupancy are issued by the Plan Commission for such residences, in order to amend a provision of these Covenants, an amendatory document must be signed by the Owners of at least 75% of the Lots in the Subdivision and by the owners of at least 75% of the lots in future sections, if any, of Thresher Ridge. For purposes of this Section 5.25, the term "owner" shall have the same meaning with respect to Lots in such future sections, as the term "Owner" as defined in Section 1.09.

5.25.2 Until primary residences are constructed on all Lots in the Subdivision and Certificates of Occupancy are issued for those residences, in order to amend the Covenants, Developer, in addition to those persons whose signatures are required under Section 5.25.1, also must sign the amendatory document.

5.25.3 Notwithstanding the provisions of Section 5.25.1, Developer and its successors and assigns shall have the exclusive right for a period of two years from the date the Plat and these Covenants are recorded, to amend any of the Covenant provisions (except Section 5.2) without approval of the Owners.

5.26 Subdivision. No Lot or combination of Lots may be further subdivided until approval for such subdivision has been obtained from the Plan Commission; except, however, the Developer and its successors in title shall have the absolute right to increase the size of any Lot by adding to such Lot a part of an adjoining Lot (thus decreasing the size of such adjoining Lot) so long as the effect of such addition does not result in the creation of a "Lot" which violates the limitation imposed under Section 1.8.

SECTION 6. 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 the Covenants, the successful party shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and related costs and expenses incurred in such proceeding.

SECTION 7. SIDEWALKS. Plans and specifications for the Subdivision approved by and on file with the Whitley County Planning Department require the installation of concrete sidewalks within the street rights-of-way in front of Lots 1 through 39, as the obligation of the Owners of those 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 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. Should a Certificate of Occupancy be issued to Developer for a Lot on which a sidewalk must be constructed, Developer shall be considered as an Owner subject to enforcement of this Covenant with respect to that Lot.

IN WITNESS WHEREOF, Ralph Biggs, authorized President and Owner's Representative of the Real Estate, has signed this document on this 4th day of May, 1998.

THRESHER RIDGE, L.L.P.
Ralph E. Biggs
Ralph Biggs, President

STATE OF INDIANA)
SS)
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, this 4th day of May, 1998, personally appeared Ralph Biggs, known to me to be the duly authorized President and Owner of the Real Estate, and acknowledged the execution of the above and foregoing as his voluntary act and deed for the purposes and uses set forth in this document.



Regina L. Glover
Notary Public, Regina L. Glover
Resident of Adams County, IN

My Commission Expires:
August 23, 2000

Witness my hand and notarial seal.

**RESTRICTIVE COVENANTS
THRESHER RIDGE, PHASE III
LOTS 54-63, 78-85, & 127-132**

The restrictive covenants as recorded for Phase I of Thresher Ridge shall also be effective for Phase III of Thresher Ridge. Phase III to include lots 54-63, 78-85, and 127-132 containing 24 total lots.

THRESHER RIDGE L.L.C.

Ralph E. Biggs

Ralph E. Biggs, Managing Partner

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

Before me the undersigned, a Notary Public for Adams County, State of Indiana, personally appeared Ralph E. Biggs, Managing Partner of Thresher Ridge L.L.C., and acknowledged the execution of this instrument this 17th day of June, 2003.



Regina L. Glover

Regina L. Glover, Notary Public

My commission expires: 8/23/08

PROTECTIVE RESTRICTIONS, COVENANTS AND EASEMENTS
FOR THE PLAT OF
THRESHER RIDGE SECTION IV,
AND ADDITION TO THE TOWN OF CHURUBUSCO, INDIANA

The undersigned Thresher Ridge Limited Partnership owners of the real estate in Thresher Ridge Section IV do hereby encumber lots 64 - 77, 86 - 97, and 102 - 107 with the same covenants as recorded in Section III.

THRESHER RIDGE LIMITED PARTNERSHIP

Ralph E. Biggs
By: Ralph E. Biggs, General Partner

STATE OF INDIANA)

) SS:

COUNTY OF ADAMS)

Before me the undersigned, a Notary Public for Adams County, State of Indiana, personally appeared Ralph E. Biggs, General Partner of Thresher Ridge Limited Partnership, and acknowledged the execution of this instrument this 23rd day of January, 2006.



Regina L. Glover

Regina L. Glover, Notary Public
Resident of Adams County, Indiana.

My commission expires: 8/23/08