

YORK TITLE AND ESCROW, INC.  
P. O. BOX 4608  
SOUTH BEND, INDIANA 46634

HARRIS CROSSING

9506287

ST. JOSEPH COUNTY RECORDER  
FILE NO. \_\_\_\_\_  
DEPT. OF RECORDS

PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS, EASEMENTS, AGREEMENTS, AND CHARGES  
FOR HARRIS CROSSING

11 37 AM '95  
S. J.  
RECORD

Woodfield Downs, Inc., an Indiana corporation, as "the Developer" of Harris Crossing hereby makes these Restrictions, Covenants, Limitations, Easements, Agreements and Charges as hereinafter set forth applicable to the addition (subdivision) located in Harris Township, St. Joseph County, Indiana, known as Harris Crossing. This subdivision presently consists of Section I with lots numbers 1 through 23 and lots 84 through 98 and lots A and B and Outlot A as more particularly shown on the recorded Primary Plat of Harris Crossing and the recorded Final Plat of Section I (943181). Lots A and B contain existing homes and were included in the plat for the convenience of the Developer with the cooperation of the owners and are not subject to these Restrictions etc. Outlot A has no frontage on any street and has been sold to the owners of Lot 28 of adjacent Deer Park Subdivision Section One. Said Outlot A and said Lot 28 of Deer Park Subdivision, Section One have a common boundary. Said Outlot A is also not subject to these "Protective Restrictions, Covenants, Limitations, Easements, Agreements, and Charges". Future Sections from lots 24 through 83 as shown on the Primary Plat and Future Sections of Harris Crossing developed from other contiguous lands by Woodfield Downs, Inc. shall be subject to these Protective Restrictions, Covenants, Limitations, Easements, Agreements and Charges and all future amendments thereof as each Secondary Plat of future Sections of Harris Crossing become finalized and are recorded.

943181

All the present and future Lots in Harris Crossing except Lot A, Lot B and Outlot A referred to above, are subject to and impressed with the Restrictions, Covenants, Limitations, Easements, Agreements, and Charges herein set forth and amendments thereto; and they shall be considered a part of the conveyance of each lot in said addition without being written therein. The Playground and Recreation Easement area of Lot 90 of Section I will be treated separately below and is a part of this subdivision. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all said lots in said addition; and they shall run with the land and inure to the benefit of and be enforceable by the owner, or owners, of any land or lots included in said addition, their respective legal representatives, heirs, devisees, successors, grantees and assigns except for Lot A, Lot B and Outlot A. The owner, or owners, present or future, of any of the lots included and to be included in the future recorded Sections shall be entitled to injunctive relief against the owner or owners of any lot, and/or against any lot or lots, for any and all violations or attempted violations of the provisions hereof and also damages for any injuries resulting from any violation hereof; but there shall be no right of reversion or forfeiture of title resulting from such violation. Lot A, Lot B, Outlot A and the owners thereof, present and future are not bound by these Restrictions, Covenants, Limitations, Easements, Agreements, or charges because said houses and land use pre dates this subdivision and the owners thereof permitted their joining in the platting process as a conveyance to the Developer Corporation and with the express agreement that they and Lot A, Lot B and Outlot A would not be subject to the Restriction etc. anticipated to be filed to control certain aspects of the Harris Crossing subdivision. The Restrictions Covenants, Limitations, Easements, Agreements, and Charges imposed upon said subdivision are as above stated and as follows:

## I. DURATION, AMENDMENT, CONTROL AND ENFORCEMENT.

A. DURATION These restrictions, easements and covenants, hereinafter referred to as "restrictions" are to run with the land and be binding upon the undersigned and all legal representatives, successors in interest, grantees, heirs and assigns of the undersigned until January 1, 2006, at which time said restrictions shall be automatically extended for a successive term of ten years, and similarly extended each ten year period thereafter, unless prior to the end of any given term it is agreed not to extend these restrictions or any part or parts thereof by vote of eighty per cent (80%) of the then owners of all lots of Harris Crossing subdivision. The owner or owners of each said lot shall be entitled to one vote per lot. Such agreements shall be recorded as provided in the next paragraph hereof.

B. AMENDMENT The developer of Harris Crossing, Woodfield Downs, Inc., may unilaterally amend or revoke parts of these Restrictions, Covenants, Limitations, Easements, Agreements, and Charges until such time as 80 per cent of all present lots of Section I and all future lots of future Sections in Harris Crossing shall have been sold and the deeds deeded to residential buyers thereof (not builders) and recorded. The 80% shall be 80% of all lots of all sections of Harris Crossing that have been recorded and which will be recorded in the future extending from Section I, exclusive of Lot A, Lot B, and Outlot A. Such instrument or instruments of amendment or rescission shall be recorded in the office of the Recorder of St. Joseph County, Indiana. Thereafter the Amended Protective Restrictions, Covenants, Limitations, Easements, Agreements and Charges may be amended or rescinded, in part or whole, by written instruments signed by the then owners of eighty per cent (80%) of the lots of said subdivision falling under the obligations of this document and amendments thereof and thereto with the owner(s) of each lot being entitled to one vote.

C. CONTROL Part V. is incorporated here by reference. (Harris Crossing Homeowners Association, Inc.)

D. PARTIAL INVALIDITY Invalidation of part or parts of these restrictions by judgment or court order shall in no wise affect the remainder or any of the other provisions herein which shall remain in full force and effect.

E. ENFORCEMENT If any persons shall violate or attempt to violate any of the restrictions herein, it shall be lawful for the undersigned developer, its legal representatives, successors in interest, assigns, grantees, the homeowners association corporation, owners of one or more lots and holders of leasehold interests in any lot or portion thereof in Harris Crossing to prosecute proceedings at law or in equity against the person or persons violating or attempting to violate any of these restrictions to prevent such violations, or to recover damages for such violations, or both.

## II. LAND USE DWELLING SIZE

A. LAND USE No lot shall be improved, used or occupied for other than private one family residential purposes, and easement and water retention uses, as shown on the Final (Secondary) Plats, other than that portion of Lot 90, as shown on the Final Plat of Section I which may be developed as a playground or recreation area subject to the control and

responsibility of the Harris Crossing Homeowners Association, Inc. (Homeowners Association) as provided for below and in future amendments to these Restrictions etc. and as may be provided for in the By-Laws of the Homeowners Association Corporation. Such regulations and provisions of control, use and installation of playground and recreation equipment may be made and the source of funds and method of paying therefore may be determined and acted upon during the period when the Developer Corporation controls Harris Crossing and the Homeowners corporation, or following the turnover to the homeowners, after the 80% sales provisions have been complied with, provided for above in I. A and I. B, and below in Section V. All residences and other structures erected in Harris Crossing subdivision must be approved by the Developer or the Architectural Control Committee unless built by Weiss Homes, Inc. whereupon such approval will be assumed. All detached buildings and structures, including swimming pools, pool houses, storage annexes, fences, dog exercise areas and dog houses must have architectural approval by the Developer or Architectural Control Committee. Such detached buildings must be of wood with wood or simulated wood exterior. The maximum size for detached buildings, including storage buildings and pool houses, shall be 10' x 12', unless written exception is given by the Architectural Control Committee or the developer. Only in-ground swimming pools shall be permitted. Above ground hot tubs or spas are permitted subject to design, location, and screening approval by the Architectural Control Committee. Satellite dishes are prohibited unless they are less than two (2) feet in diameter. Cable television is provided by the independant cable provider in a time frame as determined by such supplier. Antennas extending in excess of 8 feet above the roof of the home are not permitted.

B. DWELLING SIZE No dwelling shall be permitted on any lot with a living floor area of the main structure, exclusive of one-story open porches and garages of less than the following number of square feet for the following types of dwellings:

<u>Type of Home</u>	
Ranch Style	1,200 square feet
Two Story	1,400 square feet
Raised Ranch (bi-level) including both levels whether the lower level is finished or not)	1,800 square feet
Three level	1,560 square feet
<u>Garages</u>	All dwellings must have a full-sized attached garage capable of storing two automobiles, but not to exceed the space of three automobiles.

C. CONSTRUCTION SCHEDULE AND OCCUPANCY Building construction conforming to the restrictions herein shall be begun within one (1) year of the initial purchase of the lot. Building exteriors must be completed six (6) months after the start of construction. All buildings and accessory buildings shall be of substantial frame, brick, or stone construction and fully completed on exterior prior to any occupancy.

D. PROHIBITION AGAINST RESUBDIVISION No lot shall be resubdivided into building lots or plots, but each shall remain devoted exclusively to the land use as assigned by the respective plat with land use terms and restrictions as defined herein. However, this restriction shall not prevent one owner from acquiring title to two or more lots for construction of a single residence or prevent the dividing of one lot accomplished by a formal replat and the creation of two lots from three.

E. ARCHITECTURAL, LOCATION, AND CONSTRUCTION APPROVAL

No building shall be erected, placed upon or altered on any lot until the building plans and specifications, and a plan showing the location of such structure have been approved in writing by the developer or the Architectural Control Committee designated by the Developer. Such approval shall be required as to materials, harmony of external design with existing structures, location with respect to topography and finish grade elevation. In the event the developer, Woodfield Downs, Inc., or its designated assignee or grantee or representative(s), fails to disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it or to its successor, assignee, grantee or the appointed Architectural Control Committee, formal approval will not be required and this restriction shall be deemed to have been fully complied with.

F. LOT DRIVEWAYS All lot or parking driveways shall be constructed of hard surface concrete pavement materials for the full length and width thereof and shall be installed by the time of occupancy unless delayed by weather, in which event construction of the driveway shall be completed at builder's responsibility as soon as practicable.

G. SIDEWALKS All lots shall be furnished with a frontage 4 ft. wide sidewalk at the location designated by developer which shall be constructed to developer's specifications as part of the builders home construction costs. The frontage sidewalk shall be constructed parallel to the street for the full street frontage of the lot in question, including corner lots, and shall be completed not later than original occupancy, unless weather does not permit sidewalk installation at that time. If sidewalk installation is delayed due to weather such shall be constructed at the builder's responsibility when the driveway is installed or as soon thereafter as weather conditions permit.

H. LANDSCAPING Grading and seeding for grass or sod must be completed by the time of occupancy, however if the time of year does not permit, sodding and/or seeding must be completed as soon as practical and in no event later than June 15 following occupancy. Grading, sodding and seeding shall be completed in such manner as not to hinder drainage or the natural flow of surface water. Any drainage swales or easements for drainage, including road ditches, shall be left open and not filled as to hinder the natural flow of surface water. Subsurface drains and/or drywells may be provided for by Builders to assist lot drainage.

III. NUISANCES

A. No noxious or offensive trade or activity shall be conducted or carried on upon any lots nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood. No commercial, business, or professional office uses shall be conducted or carried on upon any residential lot except the developer and builders of Harris Crossing may make use of several such lots for realty sales, promotional purposes, and construction purposes, notwithstanding anything which may appear to the contrary herein.

B. HOME OCCUPATIONS No homesite shall be used for any purpose other than as a single family residence, except that a home occupation, defined as follows may be permitted: Any use conducted entirely within the dwelling unit (confines of the house itself) and carried on only by a member or members of the immediate family residing in said residence, which use is clearly secondary to the use of the dwelling unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) No sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a dwelling unit; (b) No person employed other than a member of the immediate family residing on the homesite; and (c) No mechanical or electrical machinery is used, except such as is permissible for domestic household or home office purposes. No residential building shall be structurally altered to indicate from the exterior that the building is being utilized for any purpose other than that of a residential dwelling.

C. TEMPORARY STRUCTURES No trailer, basement, garage, nor any structure of a temporary character shall be used at any time as a residence, either temporarily or permanently. Mobile homes, house trailers, boats, boat trailers, or motor homes, camping trailers, recreation vehicles, larger commercial trucks, and trailers, therefore, shall not be parked on any lot for longer than seventy-two (72) hours. However, construction or sales trailers may be parked in the subdivision for the purposes of accommodating Woodfield Downs, Inc., in the construction and sales of Harris Crossing lots and homes.

D. FENCES AND SIGNS Fences must be approved by the developer Woodfield Downs, Inc., its assigns, grantees or its designated representative(s), including the Architectural Control Committee and the Harris Crossing Homeowners Association, Inc. after the Homeowners Association is turned over to the Homeowners by the Developer as provided for herein, as to quality and kind of materials, height, location, and views. Normally, four foot high fences will be the maximum. Up to six (6) feet high subdivision perimeter fencing on certain lots at some locations of Section I and on some lots in Future Sections may be permitted on written petition of lot owners, but if allowed shall be erected at the lot owner's cost. Such approvals must be given in writing by the Developer, its assignees, grantees or its designated representatives including the Architectural Control Committee and the Harris Crossing Homeowners Association, Inc. The written approvals must designate the design and materials of the perimeter fencing approved for erection on each specific lot where the perimeter fencing is to be erected. No sign of any kind shall be displayed to public view on any residential lot or building except one sign of not more than five (5) square feet advertising the realty for sale or rent, or signs, irrespective of size, used by a builder to advertise the property during the construction and sales period. The restriction on signs shall not apply, however, to the developer Woodfield Downs, Inc., its sales offices, or to sign or signs at the entrances or on unsold lots either before or after the turnover of Harris Crossing Homeowners Association, Inc. to the homeowners, designating lots yet to be sold by the Developer to the first owner. The Homeowners Association corporation may provide signage on the Playground and Recreation Easement area of Lot 90 and playground structures thereon, as the Board of Directors decides.

E. SWIMMING POOL FENCES Swimming pool fences must comply with city and/or county requirements and the design, size and materials must meet the developer's (or its assignee's, grantee's, successor's, or the Architectural Control Committee's) approval. Such fencing shall not consist of 6 ft. high lot perimeter fencing. Six foot high fencing shall be interior to the yard and at the pool location subject to Architectural Committee approval.

#### IV. LOT MAINTENANCE, SANITARY, PETS, AND EASEMENTS

A. STORAGE No lot shall be used for storage of old lumber, boats, cars, materials, or debris which would tend to make the lot unsightly in appearance and character. All fuel tanks shall be buried or concealed.

B. RUBBISH All incinerators, garbage cans and barrels shall be either located inside permanent structures or shall be of the "concealed type" and kept underground. No ashes or other rubbish shall be left in public view on said premises. No trash burning (other than trees or leaves by residents or simple construction materials by Woodfield Downs, Inc., or its subcontractors, will be allowed. No leaf burning shall take place on streets.

C. ANIMALS AND PETS PET EXERCISING AREAS No live poultry, sheep, hogs, horses, cattle or any such farm type animals shall be quartered or housed on any realty in Harris Crossing. However, domesticated dogs and cats or other ordinary household pets, may be housed within any residence or garage provided that no pet(s) be kept, bred, or maintained for any commercial purpose. Dogs must be kept on a leash. No kennels are permitted. Dog exercise areas must be approved. A dog exercise area of split rail fencing or other approved fencing of a rear or side yard close to the house or a portion thereof with "invisible" mesh, vinyl coated mesh, or wood or other materials may be constructed to contain a dog if approval of the materials and design is obtained from the developer, its assignee, successor or the Architectural Control Committee. Such dog exercise areas of limited size up tight to the house side or rear may have fencing 5 or 6 feet high if approved by the Architectural Control Committee.

D. EASEMENTS There are strips of ground variable in width, as shown or will be shown on the plats present and future of Harris Crossing which are marked "Easement," and which are reserved for various uses including, but not limited to, roads, sewers, mains, poles, ducts, lines and wires, overland drainage flows, et al, all of which are subject to control by the proper authorities and to the easement uses designated on the plat. No permanent structures shall be made in the grading of any lot areas used as drainage swales and initially provided which would alter the flow of the overland storm drainage runoff. Owners of lots in this subdivision and all sections or phases thereof, take their titles subject to such easements and the rights of the public utilities present in the subdivision. Entrance area easements, signages and signage easements and the island at the S. R. 23 entrance shall be maintained by the Homeowners Association corporation as provided for in V. below.

E. LOT AND BUILDING MAINTENANCE The owners of every lot and residence shall maintain the lawn of their respective lots and their buildings so that they are attractive in appearance and character.

F. EFFECTIVE DATE These PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS, AGREEMENTS, AND CHARGES. for all sections of Harris Crossing shall be deemed to be attached to and shall be considered a part of the Plats of all Sections of Harris Crossing, present and future, and shall become effective upon their being recorded in the Office of the Recorder of St. Joseph County, Indiana and, then respectively as to each additional Section of Harris Crossing as each receives Final Plat Approval and is recorded.

## V. HARRIS CROSSING HOMEOWNERS ASSOCIATION, INC.

A. (Association) "Harris Crossing Homeowners Association, Inc.", an Indiana not-for-profit corporation has been or will be created according to law for the benefit of members. Only persons who are record owners of lots of Harris Crossing shall be entitled to membership except that the Owners of lot A, Lot B and Outlot A and their successors shall not be eligible for membership, nor shall they or their successors be bound by these Protective Restrictions, Covenants, Limitations, Easements, and Charges for the reasons set forth in the first and second paragraphs of the Protective Restrictions, Covenants, Limitations, Easements, Agreements, and Charges set forth above. The lot owner(s) shall be entitled to one (1) voting membership in said association per lot, however, Woodfield Downs, Inc. may at its option act on behalf of said association in all things until eighty per cent (80%) of all lots of Sections I, Section II and the additional Sections to be created, all of which will be on contiguous acreage to the north and to the east of Section I, have been deeded to residential buyers (not builders) and recorded. Thereafter the Developer corporation shall direct the formal turnover of the operation of Harris Crossing Homeowners Association, Inc. and its assets to the homeowners. The officers of the Developer corporation shall hold the same offices in the interim period in Harris Crossing Homeowners Association, Inc. as they hold in the Developer corporation, Woodfield Downs, Inc.

B. The purpose of the Harris Crossing Homeowners Association, Inc. (The Homeowners Association) is as set forth or as shall be set forth in the Articles of Incorporation and also as set forth in these Amended Protective Restrictions, Covenants, Limitations, Agreements and Charges and the By-Laws of the Homeowners corporation including the following:

1. The right to assess lot owners for:
  - a. The cost of maintenance of street lights and cost of electricity for the streetlights of the subdivision;
  - b. The maintenance of the entrance area, easement areas including those at Adams Road and maintaining the well, sprinkling system, grass, trees, flowers, signs and such other items as may be deemed appropriate for the benefit of the subdivision. This also includes the maintenance of the easement areas east and west of the main Adams Road entrance and the island area at the entrance and the easement areas east and west of the entrance lanes which at the discretion of the Homeowners corporation may be maintained as the Homeowner's Association shall direct.
  - c. The development and maintenance of the Playground and Recreation Easement area attached to Lot 90. Playground and recreation equipment may be purchased from homeowners dues, or from funds borrowed by the homeowner corporation. Gifts of such equipment may be accepted by the Homeowners Corporation; or such equipment may be obtained by a combination of purchases and gifts.

- d. The maintenance of the present and future drainage areas.
- e. Any real estate taxes assessed against the common entrance areas, the Playground and Recreation Easement Area of Lot 90, and the portions of lots used containing retention and drainage areas where those portions, of the lot or lots, present or future, are taxed separately from the owners buildable and personal use areas of such lots shall have the Homeowners Association corporation re-imburse the respective lot owners for those real estate taxes that are specifically assessed for such common use areas connected to their lots, which inclusion is now a platting requirement of county authorities.
- f. The purchase of property, liability and other appropriate insurance for the Homeowners Association corporation and for insurance on the entrance signs and landscaping owned or controlled by the Homeowner Association as well as such appropriate insurance for the playground and recreation area uses and for its equipment and landscaping, as the Homeowners Association corporation deems appropriate. Woodfield Downs, Inc. shall be named as an additional insured on all such policies taken out by Harris Crossing Homeowners Association, Inc.

C. (Easements of Enjoyment) Each member of Harris Crossing Homeowners Association, Inc. shall have a right and easement of enjoyment in all the sidewalks of the subdivision, the signage and the landscape areas, the Playground and Recreation Easement area of Lot 90, and the drainage areas which rights shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

1. The right of Harris Crossing Homeowners Association, Inc. to suspend the voting rights for any period during which any dues or assessment against his/her membership remains unpaid.
2. The right of Harris Crossing Homeowners Association, Inc. to dedicate or transfer all or any part of the Green Belt Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

D. (Green Belt Areas Defined) The term "Green Belt Areas" shall mean all real property ultimately to be owned or controlled by or subject to easements for the common use and enjoyment of all members of said association which area shall be maintained at the cost of Harris Crossing Homeowners Association, Inc.

E. (Covenant for Dues) Except for realty owned by developer Woodfield Downs, Inc., the owners of each lot in Harris Crossing shall be subject to an annual dues charge of One Hundred Dollars (\$100.00) per lot, to be paid to Woodfield Downs, Inc., and after the formation of Harris Crossing Homeowners Association, Inc. to said Homeowners corporation. Dues shall be due on January 1 of each year and payable by January 15th of each year until by proper procedures said sum shall be increased, reduced or oblised. Said fund is to be used for such purposes as The Homeowners Association corporation may approve in addition to those outlined above. Where closings take place in mid-year,



the dues charged shall be pro-rated for that current year to the day of closing and shall be due at closing. Such dues shall become a lien on each realty interest as to which said dues remain unpaid for a period of more than thirty (30) days inferior only to bona fide mortgages thereon, and enforceable in the same manner as provided law. After said thirty 30 day period, interest at twelve 12% shall be due on the unpaid amount from the due date. Additionally, and not in lieu thereof, members not current in the payment of dues may be precluded from their vote and the use and enjoyment of Green Belt Areas located therein until such time as their dues charges are made current, subject also to such further provisions as may be contained in the By Laws of Harris Crossing Homeowners Association, Inc. The Board of Directors of Harris Crossing Homeowners Association, Inc., may change the annual dues, subject to the prohibition contained above, provided that such may not be increase any year more than fifteen per cent (15%) above the previous year without majority affirmative vote of a quorum of the Harris Crossing Homeowners Association, Inc. membership first had and obtained, or by a 100% affirmative vote of the Board of Directors of Harris Crossing Homeowners Association, Inc.

F. (Membership Required) By the act of acceptance of a Warranty Deed, or other property interest, the recipient thereof thereby becomes an accepted member in Harris Crossing Homeowners Association, Inc., a community association formed or to be formed under the Indiana Not-For-Profit Corporation Act of 1971 and amendments thereto and revisions thereof composed of all persons similarly situated in Harris Crossing and agrees to maintain membership therein and abide by all rules and regulations of said association, including but not limited to payment of dues prescribed by said association.

G. (Subordination of Dues to Lien of Mortgages) The lien of dues provided for herein shall be subordinate to the lien of any bona fide first mortgage. Sales or transfer of any property interest shall not affect the dues lien, which is enforceable in the same manner as provided in the statute for enforcement of a Mechanic's Lien. However, the sale or transfer of any property interest pursuant to mortgage foreclosure or any proceedings in lieu thereof shall extinguish the lien of such dues as to payments which became due prior to such sale or transfer. No other sale or transfer shall relieve such property interest from liability for any assessments of dues thereafter becoming due or from the lien of dues which were due or owing prior thereto.

