

DECLARATION OF PROTECTIVE COVENANTS  
HIGHLAND PONDS ESTATES  
HARDY COUNTY, WEST VIRGINIA

This subdivision shall be subject to the following protective covenants for the mutual protection and benefit of all land owners. These covenants shall remain in full force and effect, and shall run with the land continuously for a period of forty (40) years from the date of recordation of these covenants. At the expiration of said forty (40) years, said declaration of covenants shall continue in full force and effect for successive periods of ten (10) years and shall terminate only upon the joinder in a declaration of termination by a majority of the lot owners affected by the covenants prior to the commencement of a ten (10) year extension period.

(1) The Grantors hereby grant and convey to the property owners, for their use forever, the "Lysle House Road" and the common areas designated as areas "A" and "B", as same appear on the Plat or Plats of this subdivision to be recorded in the Office of the Clerk of the County Commission of Hardy County, West Virginia. Said conveyances shall be upon the condition that said road and common areas shall not be used for the operation of off-road vehicles, such as all terrain vehicles, dirt bikes, and snowmobiles, excepting only that owners or their family members may operate such vehicles solely for the purpose of going to and from their own lots. The Grantors reserve the right to convey rights-of-way and to construct roads across said common areas for the purpose of providing ingress and egress to certain lots within this subdivision.

(2) No off-road motor vehicles shall be operated on areas within said subdivision designated by the Grantors, or their successors or assigns, as hiking trails.

(3) No building shall be erected closer than 50 feet to any street or road, nor closer than 30 feet to the side or rear of the lot line, with the exception that when two or more lots are used together for the construction of one dwelling, then said 30 feet set back shall apply only to outside lines.

(4) No property within this subdivision shall be used for any commercial purpose; commercial purpose meaning the providing of any service for payment of any kind. This restriction shall not apply to a renting of the improved structure on the lot for a maximum term of one year.

(5) No commercial cutting of timber shall be allowed within this subdivision, meaning specifically that no property owners shall cut or allow to be cut the timber on his or her property and sell same. This covenant shall not prevent the resident from pruning dead limbs or branches or removing trees that have fallen due to age or casualty, including Acts of God.

(6) Every lot owner shall provide each lot with an off street parking space of at least 10 feet by 20 feet, however, if the same owner has two (2) adjoining lots, with only one dwelling for the combined lots, then they shall be required to provide only one off street parking space.

(7) No subdivision of any lots sold or conveyed by the Grantors in this subdivision shall be allowed at any time unless such re-subdivision shall be agreed to by all owners of all properties affected by these covenants.

(8) All of said lots shall be used for recreational or residential purposes only, and any garage or barn must conform generally in appearance and material with any dwelling on said lot. Domestic animals, except as set forth hereinbelow, or pets may be kept and maintained upon said lands, but shall be kept and maintained within the boundaries of the owners of said lands. Domestic animals, or pets are permitted to use the common rights-of-way over the tracts of land which this is a part when under the control of some person. Animal waste must be maintained to keep odor at a minimum aroma. No hogs, goats, fowl, slaughter house or the like, or commercial dog kennels shall be maintained

upon any of said lots at any time. Horses, ponies, and cattle for private use only shall be maintained provided they are properly fenced, and provided further, that their total or aggregate number shall not exceed six (6) on any one lot in this subdivision.

(9) Nothing but a single private dwelling or residence designed for the occupancy of one family shall be erected on any of the lots, and the minimum size of any residence constructed shall contain at least five hundred sixty (560) square feet, not including basement, garage, porch or carport. All exterior construction must be completed and closed in within twelve (12) months of the commencement of construction. No part of any lot sold by the Grantor may be sold or used as a road or right-of-way to any property outside of said subdivision.

(10) No wire fence of any type shall be erected along the front boundary line (Lysle House Road) of any lot and no such fence shall be erected from the front boundary line to the rear of the dwelling. Any fence erected in the front or on the sides of the house shall not exceed 42 inches in height. All fences shall be kept in good repair. No outdoor toilets or "outhouses" shall be allowed, and all dwellings shall be equipped with septic systems that have been approved by the appropriate County and State authorities.

(11) No mobile homes, modular homes, or double-wides shall be allowed within this subdivision. Travel trailers and utility trailers may be used, however, travel trailers shall not be used as a permanent residence, or altered in any manner to be construed to be a permanent residence.

(12) All lot owners shall become members of the Highland Ponds Estates Property Owners Association. All lot owners shall pay a fee of fifty dollars (\$50) per year for the use, upkeep and maintenance of all roads and common areas within all sections of said subdivision, and such other common facilities as the Grantors may provide therein. Payment of said fee shall be payable on or before the 31st of January next following the purchase of said lots and on or before the 31st day of January each year thereafter. When one party owns more than one lot, maintenance fee shall only be responsible for one \$50.00 more of said lots, then the obligation to pay the said \$50 fee shall become the obligation of the new property owner. The Grantor shall be and remain fully responsible for the maintenance of existing roads and common areas in Highland Ponds until eight percent (80%) of all parcels with said division are sold, after which such functions, together with any improvements of any road or common areas, shall be the sole and exclusive function and responsibility of the Highland Ponds Estates Property Owners Association. Further, upon the sale of eighty percent (80%) of all parcels within said subdivision, the Grantors shall convey the "Lysle House Road" and common areas designated as areas "A" and "B" on the aforesaid Plat or Plats, unto the Highland Ponds Estates Property Owners Association. Until said Property Owner hereinabove shall be paid unto the Grantors, and after the formation of said Property Owners Association, said maintenance fee shall be paid unto the Property Owners Association.

(13) No sign shall be displayed for commercial advertising to the public view on any lot, except one sign of not more than six (6) square feet advertising the property for sale or the name of the current resident.

(14) All roofs on any buildings or structures within this subdivision, including dwelling and residence roofs, shall have a pitch of at least 4/12.

(15) The construction of any driveway or roadway on any tract shall be done with the use of culvert or drainage pipe of an adequate size and type for drainage. After completion of any construction or improvement, the ground shall be left with a neat and orderly appearance with all trash and debris removed.

- (16) Trash and refuse shall not be allowed to accumulate on the lands herein conveyed and no junk, junk vehicles or parts thereof, or vehicles not in current use shall be kept or stored thereon. All garbage shall be kept in insect and rodent proof receptacles, and removed and disposed of at least every fourteen (14) days.
- (17) Swimming and fishing in the recreation area will be for all property owners in the subdivision and their guests. However, land owners and guests will swim and fish at their own risk.
- (18) Nothing herein is to be construed to prevent the Grantors from placing further covenants or easements on any lot in said subdivision which shall not have already been conveyed by them.
- (19) After the sale of all parcels composing this subdivision have been completed by the Grantors, or sooner at the discretion of the Grantors, the protective covenants contained herein may be amended at any time by agreement and ratification of all owners of said parcels within this subdivision, and same shall be duly recorded in the Office of the Clerk of the County Commission of Hardy County, West Virginia.
- (20) If the parties hereto, or any of them or their successors, heirs or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Grantors, or any person or persons owning any real estate situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation.
- (21) The Grantors shall reserve all minerals, oil or gas beneath this real estate, as well as any mineral rights or interests pertaining to this real estate, including the right to receive rents and royalties from any oil and gas lease pertaining thereto. Upon the sale of eighty percent (80%) of the lots within this subdivision, the Grantors shall convey all of said minerals, oil, gas and mineral rights and interests to the Highland Ponds Estates Property Owners Association.
- (22) Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

  
EMMETT W. CARPENTER, GRANTOR

  
ELOISE C. CARPENTER, GRANTOR

STATE OF WEST VIRGINIA,

COUNTY OF HARDY, to-wit:

I, Terena L. Dolly, a Notary Public in and for the County and State aforesaid, do hereby certify that EMMETT W. CARPENTER and ELOISE C. CARPENTER, Husband and Wife, whose names are signed to the writing above, have each this day acknowledged the same before me in my said County and State.

Given under my hand this 28<sup>th</sup> day of September, 1989.  
My commission expires April 13, 1998.

  
NOTARY PUBLIC

