

DUNMORE RIDGE
Dedication of Plat and
Declaration of Protective Covenants,
Conditions and Restrictions

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KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant", does hereby dedicate the plat of a subdivision known as DUNMORE RIDGE, lying and being situate in Sherman District, Hampshire County, West Virginia, and being more fully described on the plat and survey of Kenneth F. Snyder, L.L.S., dated December 22, 1989, and made a part hereof, and recorded in the Clerk's Office of the County Commission of Hampshire County, West Virginia, prior to the recording of this instrument in Plat Book No. 5, page 150, to which reference is hereby made, and said real estate is all of that certain tract of real estate conveyed to Dunmore Ridge, a Partnership, by deed from Wendell M. Shanholzt, et al, dated June 6/ 1989, and recorded in the Hampshire County Clerk's Office in Deed Book No. 312, page 395. Also, that certain tract conveyed unto Dunmore Ridge, a Partnership, from Robert Haines and Ruth Haines, his wife, by deed dated July 12, 1990, that was recorded in the Hampshire County Clerk's Office in Deed Book No. 320, page no. 186.

Declarant hereby claims an exemption from the W. Va. Uniform Common Interest Ownership Act, Ch. 36B, pursuant to W. Va. Code Ch. 36B-1-202 (2), because the assessment for maintenance of the roads and common elements of all lots may not exceed \$100.00, except as set forth herein.

All lots in the DUNMORE RIDGE SUBDIVISION shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

ARTICLE I - DEFINITIONS

1. "Association" shall mean and refer to Dunmore Ridge Property Owners Association, its successors and assigns.
2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the property, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.
3. "Property" shall mean and refer to that certain real property described above.
4. "Lot" shall mean and refer to any numbered or lettered plat of land shown upon any recorded subdivision plat of the property.
5. "Declarant" shall mean and refer to Dunmore Ridge, a partnership, its successor and assigns.

ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

1. All Owners are subject to assessment and shall be members of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
2. When one-half (1/2) of the lots have been sold, a Property Owners Association shall be established with membership consisting of the Owners (and only the owners) of each lot in DUNMORE RIDGE SUBDIVISION who shall have one (1) vote per lot

owned. The Association may act on any matter upon the vote of two thirds of the lot owners present at a duly constituted meeting with seasonable notice to the Owners. A Board of Directors of three (3) to five (5) Members shall be elected by said lot owners. Day to day business shall be conducted by the Board of Directors.

The initial Directors of the Association consisting of one to five members shall be appointed by the Declarant or its assigns and thereafter the Board of Directors shall be elected by the lot owners. The initial Directors shall be responsible for calling the first meeting of the Property Owners Association. The Declarant shall provide a list of the names and addresses of the Owners to the initial Board of Directors, and it shall provide seasonable notice of the organizational meeting to Owners at the address provided by the Declarant. After the first meeting, each Owner shall be responsible to see that a current address is provided to the Board of Directors so that all notices of meetings and elections may be mailed to Owner.

The Directors shall mail the written notice of lot assessment which is due and payable on January 1 of each year, commencing January 1, 1992. Pending formation of the Property Owners Association, the Declarant shall make such assessments. See Article III, below.

All meetings of the Owners Association and/or Board of Directors shall be held in Hampshire County, West Virginia, at a suitable place to be designated by the initial Board of Directors.

At the organizational meeting, after due notice has been provided the Owners, the owners attending said meeting shall by 2/3 majority vote, form the said Association's legal entity as they deem advisable and shall elect a Board of Directors and or officers of said Association.

The Board of Directors shall administer these covenants and enforce same from time to time as they see fit upon 2/3 vote of the membership of the Board of directors.

ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENT

1.1 The Declarant and/or the Property Owners Association shall assess initially, for each Lot, ONE HUNDRED DOLLARS (\$100.00) per year for the use, upkeep and maintenance of the rights-of-ways within DUNMORE RIDGE SUBDIVISION; The monies assessed may also be used by the Board of Directors as reasonably necessary to administer the affairs of the Property Owners Association.

1.2 The \$100.00 Assessment shall be annually adjusted according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All Items 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor, (the Index). The Index for December, 1979, which was 230, is the Reference Base Index. See 36B-1-114 of W. Va. Code for more information as to the procedure for implementing adjustment of the assessment.

Note: In the event that the Property Owners Association has not been formed by January 1, 1991, the Declarant may invoice the Owners for the first road maintenance fee that is due and payable on January 1, 1991, and collect the monies. Pending formation of the Property Owners Association, the Declarant shall manage the monies in an escrow account for

the benefit of the Owners and may oversee road maintenance pending formation of the Property Owners Association as follows: Declarant shall appoint a committee of 3-5 Owners from diverse sections of the subdivision to survey the needed improvements and maintenance to the roadways, if any, and if the committee believes that it is desirable to have roadwork done on the roads before formation of the Property Owners Association has been completed, the committee shall obtain estimates from two or more disinterested, local contractors. The committee shall choose which of the bids is acceptable, and Declarant shall be authorized to pay the contractor once the work is performed to the satisfaction of the committee. Once the Property Owners Association is formed, the Declarant shall account to the Property Owners Association and turn all monies over to it. Once the Property Owners Association is formed, the committee shall be dissolved and have no further powers. All further assessments will be made by the Property Owners Association.

2. Any assessment made pursuant to this Article, shall bear interest at the rate of ten percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. The lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Property Owners Association and is deemed to covenant and agree to pay One Hundred Dollars (\$100.00) per lot to the Property Owners Association, to be created as herein set forth. In the event of a resale or transfer of one or more parcels in said subdivision, this obligation shall run with the land and become the obligation of the new owner(s) even though it may have been assessed to a prior owner. In the event of a transfer by judicial sale or sale under Deed of Trust, any past due and unpaid road maintenance fees shall be paid by the party forcing the sale of the lot. This section does not apply to Declarant should it reacquire title through judicial sale, deed of trust sale, or by voluntary sale from Owner. See Paragraph no. 4 below.

3. If the owner of any Lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners Association may bring an action at law against the Owner personally obligated to pay same and may also sell the lot involved at a public auction after advertisement once a week for two (2) successive weeks, in a newspaper having general circulation in Hampshire County, and after thirty (30) days written notice has been mailed to the last known address of said owner. Cost of sale, including reasonable and necessary attorney fees, advertising costs, auctioneering fees, recording fees, and other necessarily incurred costs shall be paid from the proceeds of sale before the payment of amount involved. Or, if the owner chooses to pay the assessments before sale of the property, the costs incurred to date of owner's payment of the assessment shall be collected from the owner as a condition precedent to cancellation of the sale.

4. In exchange for Declarant's agreement to install said roadways and rights-of-ways, the Declarant shall be forever exempt from the payment of said annual assessments and maintenance fees and assessment fees as to all Lots presently owned by or later reacquired by the Declarant. In the event the Declarant should reacquire real estate through purchase at a foreclosure sale or through settlement of Owner's default in any contract note or deed of trust that Owner should be obliged to pay the assessment, Declarant shall not be required to pay any

past due assessments that the previous Owner may have owed the Association, nor shall Declarant be required in the future to contribute to the maintenance of the roadways.

5. If any one owner owns two or more adjoining lots, a separate assessment shall be payable for each lot owned.

ARTICLE IV USE RESTRICTIONS

1. No signs for advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs, and for directional and informational signs of Declarant.

2. No further subdivision is allowed of any lot.

3. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a culvert, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as part of the development of any lot, the Owner shall provide adequate off-road parking for owner and his guest(s).

4. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plates or an inspection sticker not more than six (6) months out of date shall be permitted on any Lot.

5. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations.

6. Not more than one single family residence shall be erected on a lot. Trailers, modular homes and doublewide trailers may be placed upon any lot within the subdivision, provided that all regulations of the Planning Commission of Hampshire County that apply, if any, have been complied with. All trailers installed on any Lot shall have a width of at least twelve feet, and a length of at least sixty five feet. Where possible, house trailers shall be placed in wooded areas on the Lot. Setback lines for mobile homes shall be one hundred feet from the center line of the subdivision road unless terrain prohibits placement one hundred feet from same, in which case trailers shall be set back fifty feet or more from the centerline of the subdivision road. All house trailers must be permanently placed on a block foundation or the foundation must be enclosed by aluminum siding. Any dwelling houses (as opposed to trailers) shall have a minimum of seven hundred fifty square feet of living area on the ground floor, excluding basement, garage, porch, carport, deck, and overhanging eaves. All exterior construction must be completed and closed in within two (2) years of the commencement of construction.

7. Each lot shall be used for residential purposes only, and any garage or outbuilding must conform generally in appearance and material with any dwelling on said lot. Use of the property for commercial purposes or agricultural use is prohibited. No livestock may be grazed, raised, or otherwise maintained within the subdivision. No poultry of any type may be raised or maintained within the subdivision. Household pets, such as dogs and cats are permitted, provided that no Owner shall have more than a total of two (2) such animals per household. All dogs must be restrained within the owners' lot, and Owner shall not permit his pets to trespass on an adjoining Owners' Lot.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

- (a) Home occupations conducted by occupant.
- (b) Home gardening is permitted.

8. The Owner shall maintain, repair, and restore, as necessary, the exterior of any building or other improvements erected on any Lot owned by him. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot. Junk vehicles may not be left on any lot. Junk vehicles shall be defined as being a motor vehicle which has no current license and inspection sticker and which has not had same for six months or more.

9. No building shall be erected closer than fifty (50) feet from the center of the roadway nor closer than fifty (50) feet to the side or rear property lines, with the exception that where two or more tracts are used together for the construction of one dwelling, then said fifty (50) foot setback shall apply only to the outside lines.

10. All dwellings placed on any lot must have septic systems that comply with the regulations of the West Virginia Health Department. No free standing toilets, or so called "privies" are allowed within the subdivision.

11. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. Property owners must maintain their property in an attractive condition and the grass and shrubbery must be kept trimmed.

12. The Declarant reserves unto itself, its successors, and the Property Owners Association, easements for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable t.v., electric and water lines on, over and under a strip of land fifteen (15) feet wide along all rights-of-ways, plus sufficient room for guying purposes in addition to easements reserved by any other instruments duly recorded. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

13. Each lot owner shall have an unobstructed and the nonexclusive right of ingress and egress to and from his lot over the rights-of-ways and roadways as shown on the subdivision plat, and a right-of-way over the Road shown on the plat which provides ingress and egress with West Virginia Route 50/18. The widths of said rights of way are shown on the plat of survey. The roads have been finished and have not been widened to the full width shown on the plat of survey. The Property Owners Association by 2/3 vote of the Owners attending a duly constituted meeting wherein seasonable notice was provided the Owners of said meeting, may, at its own expense, widen said roads or maintain same as it sees fit so long as the road construction, drainage ditches, culverts, etc, are located within the area designated for the road rights of way as shown on the plat of survey. The Lot Owners Association shall be responsible for maintenance of the subdivision roads, and responsible for the maintenance of the

access road to and from West Virginia Route 50/18. The rights-of-ways shall be subject to the common usage of the declarant, their heirs and assigns. Travel across all rights-of-ways shall not exceed the speed limit of fifteen (15) miles per hour.

14. The use of any snowmobile, dirt bike, all terrains vehicles, or other similar motorized conveyance within the subdivision is prohibited including unlicensed motorcycles.

15. No timber shall be cut upon said lots until the lot is fully paid for, excepting for sufficient area to erect a dwelling house, garage or storage shed, driveway or utilities. This covenant is not designed to prevent selective clearing of under brush, dead or diseased trees.

16. If any lot owner shall violate any of the covenants herein, it shall be lawful for any other 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. The Board of Directors, upon a favorable 2/3 vote of its members may act to enforce any violation of a covenant or other term of these Covenants. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

17. The Association, by vote a 2/3 of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above, may be enforced by fines or other penalties. Bylaws may be established by the Association upon a 2/3 vote of the Owners.

18. There is an old family cemetery located on Lot number 14 of said subdivision, and an easement is now reserved in favor of the family members to make such use thereof as is permitted by law, including the use of the subdivision road system to visit and care for the graves, or from time to time bury loved one at said location if presently permitted by West Virginia Law. The Declarant has placed a fence around the cemetery at or near its original boundaries. The location and size of the cemetery is shown on the plat of survey, and reference is made thereto for all pertinent purposes. It is understood that the Property Owners Association shall be responsible to maintain the fence and to mow the cemetery from time to time. The expense of carrying out this function may be deducted and paid from the annual road maintenance assessment.

19. It is specifically understood that the original plat which shows a cul de sac at the intersection of lots 33 & 32 is erroneous. The subdivision road continues at the intersection of lots 33 & 32 northeast, running with the boundary line of Lots 30 & 32 following these calls: N 30° 52' 05" E 410 feet to a cul de sac at the intersection of Lots 32, 30 & 31, and provides ingress and egress to these three lots. This small stretch of road is a part of the subdivision road system and shall be maintained by the Property Owners Association the same as all other subdivision roads.

ARTICLE V GENERAL PROVISIONS

1. The Association through its board of directors (by 2/3 favorable vote, or by 2/3 favorable vote of the Owners attending an annual meeting or a special meeting called for that purpose or any individual Owner, shall have the right to enforce by any

proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association or by any Owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land. This Declaration may be amended by an instrument signed by not less than ninety (90%) of the lot owners.

3. Invalidation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and effect.

4. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.

Richard L. Feller
Donald G. Turner
 Declarant

State of West Virginia,

County of Hardy, to-wit:

3/27 The foregoing instrument was acknowledged before me this the day of December 1990, by Richard L. Feller a general partner of Dunmore Ridge, a West Virginia Partnership.

My commission expires June 8, 1992

William D. Judge
 Notary Public

State of West Virginia,

County of Hardy, to-wit:

3/27 The foregoing instrument was acknowledged before me this the day of December 1990, by Donald G. Turner, a general partner of Dunmore Ridge, a West Virginia Partnership.

My commission expires June 8, 1992

William D. Judge
 Notary Public

This instrument prepared by
 Oscar M. Bean & Joyce E. Stewart
 Bean & Bean, Attorneys at Law
 Drawer 30, Moorefield, WV 26836

STATE OF WEST VIRGINIA, County of Hampshire, to-wit:

Be it remembered that on the 17th day of December 1996, at 3:55 P M.,
 this Deed was presented in the Clerk's Office of the County Commission of said County
 and with the certificate thereof annexed, admitted to record.

Attest Nancy C. Feller
 County Commission, Hampshire County, W. Va. clerk