

HARVEST HILLS

**DEDICATION OF PLAT and
DECLARATION OF PROTECTIVE COVENANTS**

KNOW ALL MEN BE THESE PRESENTS: That the undersigned Sunrise Development Company, Inc., hereinafter referred to as the "Declarant" does hereby declare that all Lots or Tracts identified on the Plats of Harvest Hills Subdivision, and any and all phases thereof, lying and being situate in Hampshire County, West Virginia, either recorded contemporaneously with this Dedication of Plat and Declaration of Protective Covenants (hereinafter "Declaration") or to be recorded at a later time in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, 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 thereof:

ARTICLE I

DEFINITIONS

- (1) "Association" shall mean and refer to Harvest Hills Subdivision Property Owners Association, Inc., its successors and assigns.
- (2) "Declarant" shall mean Sunrise Development, Inc, the "Grantor/Developer" and refer to its successors and assigns.
- (3) "Development" shall mean the Harvest Hills Subdivision situate in Hampshire County, West Virginia, including any and all phases of said subdivision, and any properties further annexed to Harvest Hills Subdivision by Declarant pursuant to this dedication and Declaration.
- (4) "Grantor/Developer" shall refer to Sunrise Development, Inc., its successors and assigns.
- (5) "Lot" or "Tract" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat(s) of the property, or recorded plats of phases of the development of the property.
- (6) "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 part of the property, including contract sellers, but excluding those having such an interest merely as security for the performance of an obligation.

- (7) "Property" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat of the property or recorded plats of phases of the development of the property.

ARTICLE II

MEMBERSHIP, VOTING RIGHTS, AND OBJECTIVES

- (1) Every owner of a lot shall be a member of the Harvest Hills Subdivision Property Owners Association, Inc. Membership shall be appurtenant to and shall not be separated from ownership of any lot. There shall be two classes of membership, Class A and Class B. The Declarant shall be the Class A member and shall be entitled to three votes for every lot owned in Harvest Hill Subdivision. All other property owners shall be Class B members and shall be entitled to one vote for each lot owned.
- (2) The Association shall be governed by a Board of Directors of not less than three (3) and not more than five (5) members. The Board of Directors shall be elected by the lot owners, except that the initial Board of Directors shall be appointed by the Declarant. The initial Board of Directors shall be responsible for calling the first meeting of the Association to be held upon the sale of seventy-five percent of all lots in the development, or any phase thereof. The initial meeting shall be held at a suitable place to be designated by the Board of Directors in Hampshire County, West Virginia.
- (3) The Harvest Hills Subdivision Property Owners Association is required to secure and maintain a third party liability insurance policy in the principal amount as may be required by the State of West Virginia or Federal law from time to time.
- (4) The Duties and Responsibilities of the Property Owners Association shall include, but not be limited to the following:
 - (A) Maintain the Property Owner's Association, establish appropriate by-laws for the operation of the Property Owners Association, periodically elect officers and directors, and establish and collect fees and dues.
 - (B) Maintain financial and all other necessary records of the Property Owners Association.
 - (C) Administer the upkeep and improvements to the Harvest Hills Subdivision.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENT

- (1) Each owner of a Lot with Harvest Hills Subdivision shall pay an assessment for the reasonable construction, use and maintenance, and expansion of the roads and common areas and elements of the Property. All initial purchases from Declarant of Lots in the Development shall be assessed a \$300.00 Association Fee. Thereafter, all assessments, including any pro-rata share of said assessments shall be collected by being paid beginning the calendar year of July 1, 2007 through June 30, 2007. The Assessment for the calendar year 2007, and all years thereafter, unless amended pursuant to the terms and condition of these covenants, shall be \$300.00 per lot. All assessments shall be due and owing on the first day of July of each year and if unpaid shall be a lien upon the property against which each assessment is made. Sunrise Development Company, Inc., the Association, and their assigns shall have the right to sue for and collect any assessment, together with interest, properly assessed under this contract.
- (2) Any assessment made on a property pursuant to this Article including a late fee of Twenty Five Dollars (\$25.00), 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. This 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 the deed thereto, automatically becomes a member of the association to be created as herein set forth, and agrees to pay the amount as determined by the majority vote of the Owners of the Lots in Harvest Hills Subdivision as deemed necessary for the purpose of maintaining (including the removal of snow and the repairs and improvements of the roads and common areas and elements and upkeep and maintenance of street lights, etc.) the right of ways and roadways and common areas as shown on the subdivision plat. During June of each year, beginning June 2007 said Association shall notify each Lot Owner in writing as to the amount of the Lot Assessment, which shall be due and payable in July of the following year. In the event of a resale or transfer of one or more Lots 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 the prior owner.

- (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 Declarant or the Association may bring an action at law against the owner personally obligated to pay same.
- (4) In exchange for the Declarant's agreement to install and maintain said roadways and rights-of-way until seventy five (75%) of the Lots have been conveyed the Declarant shall forever be exempt from the payment of said annual assessments and road maintenance fees as to all Lots now owned or later reacquired by the Declarant. In the event that the Declarant should later reacquire real estate through purchase at a foreclosure sale or through settlement of an Owner's default in any contract, note or deed of trust, that the Owner should be obligated to pay the Declarant, Declarant shall not be required to pay any past due assessment that the previous owner may have owed the Association, nor shall the Declarant be required in the future to contribute to the maintenance of the roadways or the common areas of the property.
- (5) Each Lot Owner, by acceptance of a deed thereto, acknowledges that the roads, rights of way, common areas and common elements are private in nature and shall not be maintained by the West Virginia Department of Transportation or other public agency and that the maintenance and improvement thereof shall be the mutual obligation of the Owners in the subdivision abutting said roads and Common Areas.

ARTICLE IV

USE RESTRICTIONS

- (1) No signs or advertising of any nature shall be erected or maintained on any lot, except "for sale" or "rental" signs not to exceed six (6) square feet in area (said signs must comply with all county, state or federal law), except for directional and informational signs provided by the Declarant, its successors or assigns.
- (2) No Owner of any Lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lots. Consequently, in the construction of driveways into any lot, a minimum 15-inch diameter culvert shall be used in constructing the driveway

in order to facilitate natural drainage, with a sufficient depression installed on driveway to allow drainage across driveway in case of overflow of the culvert.

- (3) No parking is permitted upon any road within the property at any time, and as part of development of any lot, the Owner shall provide adequate off-road parking for himself and guests.
- (4) At no time shall any recreational structure, such as basketball hoops and backboards, be located upon the roadways or right-of-ways of the development.
- (5) Due to the unsightliness of junk vehicles, no motor vehicle or trailer, which does not have current license plates or an inspection sticker not more than three (3) months out of date, shall be permitted on any lot. Motor-homes, camping trailers, RVs and/or utility trailers may be placed upon the property only for storage, if done so in a manner that is consistent with the neighborhood and in a manner that obscures sight of it by other property owners and from the roads and rights of way of the subdivision.
- (6) No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building permanent structures, and in such cases, for a period not to exceed twelve (12) months.
- (7) Not more than one (1) single-family residence shall be erected on a lot in the subdivision or phases thereof. Residences shall contain a minimum of 1,500 square feet of living space and provide garage space sufficient to house at least one (1) vehicle. Said square footage requirement is of living space, excluding basement, porch, carport, deck, garage and overhanging eaves. All exterior construction must be completed and closed in within twelve (12) months of the commencement of construction. No exterior siding (including exposed foundation) of poured concrete, masonry block or cinder block shall be permitted and all foundations must be finished in a manner consistent with the home. Mobile homes or doublewide homes are not permitted in the subdivision; however, stick built modular homes may be permitted in the subdivision. Further, no residence in the subdivision shall be constructed in a manner so that there are more than three (3) floors above ground level.
- (8) Detached garages are permitted; however, any such detached garage shall not be included in the square footage requirement for the dwelling to be built on any lot in the development. Any detached garage must be of a design and constructed of materials

similar in nature to the residence constructed on any property, further the square footage of any detached garage shall not be greater than fifty percent (50%) of the square footage of the residence constructed on any lot in the subdivision. No aluminum car shelters or other detached carports of any nature shall be permitted on any lot in the development. Further, the construction of any garage, detached or attached, shall not precede the construction of a residence on any lot in the Development. Each lot shall be used for residential purposes only, and any garage, barn or outbuilding must conform generally in appearance and material to any dwelling on said lot.

(9) Any construction of structures on the property shall be done in such a manner as to not unreasonably interfere with the view or "view shed" of any existing residence(s) on the adjoining properties in the development.

(10) No outdoor animals, domestic or otherwise, may be kept on the property. Indoor domesticated pets are permitted; however, all Owners and residents agree to be responsible for the proper care and supervision of their pets while outside their residence. Further, all Owners and residents by acceptance of their deed agree to be responsible for cleaning up after their pets and removal of all pet waste from the common areas of the development. All Owners and residents agree further to comply with all local and state regulations and laws concerning the care and possession of pets within the subdivision.

(11) No Lot shall be used for commercial use, except that Lots may be utilized for in-home occupations although no signs or advertisements thereof will be permitted within the subdivision. While business invitees thereof all have use of the subdivision roadways, such use shall be for ingress and egress only. Such in home occupational use shall not be permitted to become a nuisance to other Lot owners.

(12) The owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of the subdivision road damaged by equipment of Owner or his contractor en route to or from Owner's lot. Further, prior to and during construction of any residence or appurtenant structure on a lot in the subdivision the Owner of any lot shall be required to post with the Declarant, its successors or assigns, a construction bond fee of \$1,500.00, to be held in escrow by the Declarant until such time as construction is complete and this paragraph has been fully

complied with. Upon failure to comply with this paragraph, upon written notice of said failure to comply by Declarant to Owner, and upon Owner's continued failure to comply with this paragraph, said funds may be used by the Declarant, its successors or assigns to enforce compliance with this paragraph and Owner waives any claim to said funds used in such manner.

- (13) No building shall be constructed closer than twenty-five (25) feet from the property lines of any Lot, or the outside property lines of combined lots where two (2) or more lots are used for the construction of one (1) single residence. Further, all setback lines in the subdivision shall comply with the then current version of the Hampshire County, West Virginia subdivision ordinance.
- (14) No lots shall be maintained or used as a dumping ground for rubbish. Trash, garbage or other waste must be kept in sanitary containers. All raw materials must be kept from view at all times.
- (15) All utility lines, including but not limited to, electric, water, sewer, cable, phone, etc., shall be installed in an underground manner in the subdivision. The Declarant reserves unto itself or its assigns the right to erect, maintain and operate and replace telephone and electric and other utility lines, conduits and related equipment and water, gas and sewer lines, and the right to grant easements or rights of way therefore, over, on and under a strip of land ten (10) feet along all property lines not serving as the centerline for street right of ways and twenty-five (25) feet along all street right-of-ways, in addition to easements reserved by any other instruments duly recorded. A utility fee may be included in the initial Purchase price of each lot by Declarant. Any such fee collected shall only be used to pay for the installation of electric, telephone service and other utility service to each lot. The extension of any such service from any lot's property line and onto the lot is the responsibility of the Owner.
- (16) Each Owner shall have an unobstructed right-of-way and easement over and across the roads as shown on the subdivision plat(s) as recorded from time to time, for the purpose of ingress and egress to and from the public roads and common areas and facilities in the subdivision. No part of any lot may be sold or used as a road or right-of-way without advance written permission of the Declarant. The Property Owner's

Association shall be solely responsible for the maintenance of the subdivision roads and common areas and elements.

- (17) Reasonable cutting of wood and timber for land clearing is permitted. However, no cutting of wood for commercial purposes is permitted.
- (18) The use of dirt bikes, other two-wheeled recreational vehicles not otherwise approved for usage on the roads of the State of West Virginia, all-terrain vehicles, ATVs, 4-wheelers, 3-wheelers, snowmobiles and all other such similar recreational or unlicensed vehicles is prohibited on the roads and right-of-ways of the subdivision.
- (19) Hunting and the discharge of firearms within the subdivision are prohibited.
- (20) No open fires shall be permitted in the development.
- (21) All driveways in the development must be constructed in a manner consistent with the quality of the neighborhood. All driveways must be paved with asphalt, concrete, brick pavers, or other similar hard surfaced material within sixty (60) days of the completion of construction of any residence on any lot within the development. At no time shall a driveway of shale, dirt, stone, gravel or tar and chip, or other similar construction be permitted on any lot beyond sixty (60) days of completion of construction of any residence.
- (22) All residents and Owners agree to abide by these covenants, and to be bound by them. Further all residents and Owners agree to be bound by and honor all posted signs placed along the roadways, right-of-ways and common areas of the development by Declarant or its successors and assigns and by acceptance of the deed to the property consent to the enforcement of such posted signs by any and all local law enforcement authorities.
- (23) If any lot owner shall violate any of the covenants herein, it shall be lawful for any Owner or the Association 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 from doing so or to recover damages or other dues for such violation. Failure to enforce any provision herein shall in no way be deemed a waiver of the right to do so hereafter.

- (24) The Association by a vote of two-thirds (2/3rds) of its members may make additional rules, covenants, and restrictions for the use of the Property, which together with the above may be deemed advisable by the Association.
- (25) No lot may be further subdivided. However, the Declarant does reserve the right to re-plat any subdivision lot, which right may include the right to further subdivide lots within the subdivision, which have not been previously transferred by the Declarant.
- (26) Owner of any lot within the development acknowledges and agrees by his acceptance of a Deed to property within the development that a private sewage disposal and treatment facility exists for the use of all lots within the development and Declarant, its successors and assigns. Owner agrees that as part of any purchase of a lot in the development he may be responsible for the payment to Declarant's supplier the sum necessary for the purchase of all required sewage pumps and or grinder pumps, (particularly Lots 19, 23, 24, 25, 26, and 27 of Phase One of Harvest Hills Subdivision shall require grinder pumps, and other lots in the subdivision may require same based upon engineering recommendations), pay a water tap connection fee of \$300.00, (or the then current tap fee as set by the Central Hampshire Public Service District or its successor, and pay a monthly fee to Central Hampshire Public Service District for water service and a monthly fee to the Declarant, its successors and assigns, for the use of the central sewage system, consistent with the then current fees assessed by the Central Hampshire Public Service District of Hampshire County, West Virginia, or its successor agencies. Owner further understands and agrees that while Declarant reserves to itself the right to maintain and operate such sewage treatment facilities for the development, including any subsequent phases of the development and to sell excess capacity to other third parties, Declarant further reserves unto itself the right to transfer operation and maintenance of the system to the Harvest Hills Subdivision Property Owners Association upon sale of seventy-five percent (75%) of the lots in the development, or to the Central Hampshire Public Service District of Hampshire County, West Virginia or any successors agencies. Owner agrees that it consents to any such transfer in advance, upon its proper approval by the West Virginia Public Service Commission or other appropriate authority. Further, Owner agrees in advance to pay any further fees due hereunder or as assessed by the successor owner/operator of such facility.

- (27) Further, by acceptance of a Deed to property in Harvest Hills Subdivision the Owner agrees to comply with all requirements of Declarant, its heirs successors and assigns concerning use of the central sewage system of Harvest Hills Subdivision. At no time shall storm water be diverted, or gutters installed from homes so as to divert storm water, into the central sewage system by Owner.
- (28) Owner agrees to maintain his yard area in a manner consistent with the neighborhood. All yards shall be maintained in a uniform and consistent manner and lawns shall be regularly kept and mowed. Further, all above ground pools, outdoor recreation equipment, outdoor storage tanks and other like exterior structures must be installed, used and maintained in a manner consistent with the neighborhood and obscured from view by other Owners and from the streets and right-of-ways of Harvest Hills Subdivision. No outdoor furnaces or outdoor burning stoves shall be permitted on any lot in the subdivision.
- (29) Owner acknowledges that in order to promote uniformity in the development, Declarant, or its successors, will provide, with the initial purchase of the lot from Declarant, a mailbox unit to be installed on their property in the manner, in the location and in accordance with Declarant's instructions accordance with U.S. Postal Service requirements. By acceptance of his Deed to the property Owner agrees to continue to maintain said mailbox in the same location and in the same manner as originally placed. Should replacement of a mailbox unit become necessary, Owner(s) agree to replace same and bare the cost of replacement, with the same mailbox system.

ARTICLE V

GENERAL PROVISIONS

- (1) Declarant reserves the right to re-plat any unsold lot or lots. Nothing herein shall be construed to prevent Declarant from imposing additional covenants or restrictions on unsold lots. Further, nothing herein shall be construed as preventing Declarant from further subdividing any unsold lot.
- (2) The Declarant, Association, or any Owner shall have the right to enforce by any proceedings, at law or in equity, all restriction, conditions, covenants, reservations, liens, and charges now or hereinafter imposed by the provision of this Declaration. Failure by

the Declarant or Association or by any Owner to enforce any provision contained herein shall in no event be deemed a waiver of the right to do so thereafter.

- (3) Additional Property maybe annexed to the Subdivision by the Declarant. In such an event the roads and streets within the subdivision shall be accessible to all lots within the additional property.
- (4) Declarant reserves the right to reasonably modify, change or waive the covenants herein without the consent of any of the owners for a period of one (1) year from the date of the sale of the last lot by Declarant from Harvest Hills Subdivision.

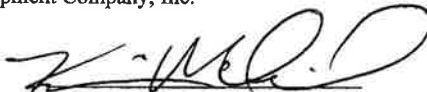
ARTICLE VI


APPLICATION OF COVENANTS

- (1) The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a period of twenty-five (25) years from the date this Declaration is recorded. Thereafter the Declaration shall be renewed for successive periods of ten (10) years unless the declaration is modified by an instrument signed by the Owners of not less than seventy-five percent of the Owners. After which they shall automatically extend for successive periods of ten (10) years each. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than seventy-five (75) percent of the Owners.
- (2) Invalidation of any covenant, restrictions or other provisions of this Declaration by Judgment or Court Order shall in no way affect other provisions, which shall remain in full force and effect.
- (3) Whenever in this Declaration the context so requires, the masculine gender includes the feminine and neuter and singular numbers include the plural and plural numbers include the singular.

WITNESS THE FOLLOWING SIGNATURE AND SEAL of Kevin Malick, President, Sunrise Development, Inc., who has caused this instrument to be executed this 4 day of October 2006 as the act of Sunrise Development Company, Inc.



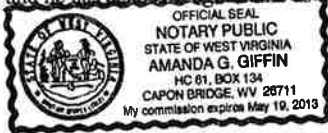

Kevin Malick, President
Sunrise Development, Inc.


Karen M. Malick, Secretary

STATE OF WEST VIRGINIA,

COUNTY OF HAMPSHIRE, to-wit:

The foregoing instrument was acknowledged before me this 4 day of October, 2006, by Kevin Malick, President of Sunrise Development Company, Inc., and he has acknowledged ~~same~~ the act of the aforesaid corporation.



Amanda G. Giffin
Notary Public

My Commission Expires:

May 19, 2013

This instrument was prepared by Donald P. Cookman, Attorney at Law, COOKMAN LAW OFFICE, 78 E. Main Street, Romney, WV 26757.

SHARON H. LINK
HAMPSHIRE COUNTY-03-06-11 PM
Instrument No 100720
Date Recorded 10/02/2007
Document Type CCR
Book-Page 468-556
Rec/Preserve \$12.00 \$2.00

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STATE OF WEST VIRGINIA, Hampshire County Commission Clerk's Office 10/2/07 2:04pm

The foregoing Instrument, together with the certificate of its acknowledgment, was this day presented in said office and admitted to record.

Teste

Sharon H. Link

Clerk.