

Maxine Woodland Inc.  
1500 Old Lee Hwy  
Suite 402  
Mechanicville

55324

EXHIBIT 1

DECLARATION OF PROTECTIVE COVENANTS  
AND RESTRICTIONS OF  
DILLONS RIDGE SUBDIVISION

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THIS DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS is made this 10 day of April, 1994, by WOODLAND, INC., a Virginia Corporation ("the Declarant"), as the owner of all of that tract of land in Hampshire County, West Virginia, shown on the attached plat and known as Lots 1 through 11 inclusive, Phase I, and Lots 12 through 34 inclusive, Phase II, Dillons Ridge Subdivision. These protective covenants and restrictions do not apply in any way to any residual or residue of land which may be formed as a result of this subdivision. The tract of land thus identified shall be referred to in this Declaration as "the Property".

NOW THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which shall be covenants real running with the Property and every lot contained therein, whether or not specific reference is made to this Declaration in any deed or other instrument transferring or conveying any portion or all of such Property. These covenants shall be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

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**ARTICLE I**

**USE RESTRICTIONS**

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The following restrictions shall apply to all of the lots in Dillons Ridge Subdivision unless otherwise indicated below.

- a. Lots may be used only for recreational and single family residential purposes and for purposes incidental or accessory thereto, including one guest house, except that camping is allowed subject to the provisions of section d of this article.
- b. All exterior construction must be completed and closed within nine (9) months of the commencement of construction. No building of a temporary nature shall be erected or placed on any of said lots except those customarily erected in connection with building construction operations, and in such cases for a period not to exceed six (6) months.
- c. Any single wide mobile home placed on lots 1 through 16 must be removed within three (3) years from the date it is placed on said lot. Further, any single family dwelling constructed on the above mentioned lots that is to be occupied as a full time residence must be constructed to have a minimum of 1000 square feet of living space.
- d. No owner shall erect or suffer to be erected any structure within, or otherwise obstruct, any easement across his lot, nor divert or otherwise interfere with the natural flow of surface water, except that a pond

which is approved by the proper authorities is permitted,<sup>(1)</sup> 335  
nor obstruct any drainage ditch.

- e. As part of the development of any lot, the owner shall provide adequate off-street parking for himself and his guests.
- f. No sign of any kind larger than two square feet shall be displayed on any lot, except temporary signs in connection with the construction, lease or sale of buildings or lots, and except street names and directional signs.
- g. No trailer (i.e. one which can be towed by an automobile) or camper containing living or sleeping quarters may be placed upon the Property, except for the purpose of camping for temporary periods or intervals, not to exceed thirty (30) consecutive days or a total of ninety (90) days per calendar year. Any such campers or trailers cannot be located closer than 50 feet to any lot line. They must be fully self contained or connected to an approved septic system, except that legally registered recreational vehicles may be stored upon said lot if a permanent dwelling exists on said lot.
- h. Concrete or cinderblock foundations on houses must be parged, or painted. Any mobile or modular or panelized home placed on any lot must be permanently installed on an appropriate foundation.
- i. No noxious or offensive trade or activity shall be carried on upon any lot or right-of-way, nor shall

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anything be done thereon which may become an annoyance or nuisance to the community. Without exclusivity, the following items and activities must be thoroughly screened by appropriate methods:

1. Refuse containers (all refuse must be kept in closed sanitary containers at all times.)

j. Each owner of a lot shall keep all improvements owned by him in good order and repair, such that the appearance of the property not detrimental to adjoining lots.

k. The Declarant hereby creates a perpetual easement in favor of the Declarant and all lot owners on, over, under, and across the ingress and egress easement area and on, over, under and across a strip of land thirty (30) feet wide as follows:

There shall be a 30' public utility easement adjacent to all road rights-of-way and the perimeter boundary lines of this subdivision. In addition, there shall be a 30' public utility easement along all interior lot lines, 15' on either side of said lot lines as an easement appurtenant to each lot in the property for the installation, use, maintenance, repair, and replacement of public and private utilities, including sewer, water, gas, electricity, cable television, telephone, and telegraph. Said easement areas are not dedicated to the public. Any person exercising the easement rights granted hereby shall repair any damage to an easement

area caused by such person, including but not limited to backfilling of trenches, replacement of pavement, sod, fences, shrubbery, and landscaping, but not the placement of large trees.

- l. All sewage disposal systems constructed on said lots shall conform to the regulations of the West Virginia Department of Health and any other appropriate local, state, or federal regulatory authorities. All sewage must be disposed of through an in-ground septic system. Out houses are not allowed.
- m. A minimum of not less than fifteen (15) inch diameter culvert must be used in all driveways leading from any roadway in any right of way or ingress-egress easement where a drainage ditch is crossed by such driveway.
- n. Except as hereinafter provided no animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot for commercial purposes.
- o. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other household waste of any type or nature, as for cars, appliances, commercial or construction refuse or rubbish of any type.
- p. After the initial conveyance of each parcel by the Declarant herein, no further subdivision or resubdivision of any lot shall be permitted under any circumstances, except that minor boundary line adjustments are permitted.
- q. No timber shall be harvested for commercial purposes.

ARTICLE II

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The right of way and ingress-egress easement area in Phase II of Dillons Ridge designated Tracy Road Road and Cary Court on the plat attached hereto shall be subject to the following terms and conditions:

- a. Said easement shall be used for the purpose of vehicular and pedestrian ingress and egress to Lots 19 through 34 inclusive, Phase II.
- b. No act shall be performed by the owner of any lot, his tenants guests or agents which would in any manner affect or jeopardize the free and continuous use and enjoyment by any other owner in and of the easement area and the roadway thereon.
- c. There shall be no parking within the easement area at any time.
- d. In the event that the roadway is damaged or destroyed through the act of any owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such owner to rebuild and repair said roadway without cost to any other owner.
- e. Except as otherwise provided in paragraph d. above, the owners of Lots 19 through 34 of Phase II shall each be responsible for one-sixteenth (1/16) of the costs of road maintenance, including all costs of repair, rebuilding, maintenance and snow removal.
- f. The owners of Lots 19 through 34 Phase II shall hold an

annual meeting for the purpose of electing three individuals as members of the Road Committee to be responsible for administering the roadway, including obtaining contractors to perform necessary work, preparing a budget, assessing and collecting road assessments from the owners, maintaining bank accounts and making appropriate disbursements; provided, however, that for so long as the Declarant owns any of said lots, the Declarant shall have the sole right to appoint the members of the Road Committee. The time and place of the annual meeting shall be sent to all of the owners not less than thirty (30) days prior to the meeting.

- g. Each owner agrees to hold each member of the Road Committee harmless from any and all claims, liabilities, or causes of action arising out of the performance of their duties hereunder. No member of the Road Committee shall be liable to any lot owner or any other person for any decision made or contract entered into in good faith, nor for any mistake in judgement, except for such member's gross negligence or willful misconduct.
- h. The Road Committee shall send each owner an annual report as to the status of the roadway, an annual budget, and a notice of assessment. The annual assessment shall be payable in a lump sum or in installments, to be determined by the Road Committee, and on such date or dates as the Road Committee shall determine. Any assessment not paid when due shall bear interest at the

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rate of fifteen percent (15%) per annum (or the highest rate permitted by law, if lower) from its due date until paid, and if suit is brought to collect the assessment, the provisions of paragraph 2 of Article III below shall apply.

- i. All contracts for maintenance, repair, rebuilding, and snow removal shall be rewarded on the basis of competitive bids by the Road Committee. No work other than routine maintenance and repair and snow removal shall be performed without the prior consent of the owners of at least seventy-five percent (75%) of Lots 19 through 34 of Phase II at a meeting duly called for that purpose or in a mail referendum held for that purpose.
- j. If any of the lots is owned of record by more than one individual, such owners shall collectively be entitled to one vote, which shall be exercised only by the majority action or consent of the owners of such lot.
- k. Each Purchaser of lots 19-34, Phase II of the Dillons Ridge Subdivision, shall be assessed a \$100 per year road maintenance fee. This amount may be increased or decreased by a vote consisting of 75% of these lot owners. No money shall be collected until the owners of said lots have held its first meeting, and an officer or officers are elected to collect such funds. Notice of said meeting will be mailed to each property owner at least 30 days prior to said meeting.



ARTICLE III

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Upon the completion of the sale of all lots in sections 1 and 2 of the Dillons Ridge Subdivision, Hampshire County, West VA, a meeting will be called of all property owners for the purpose of organizing a Property Owners Association for the Dillons Ridge Subdivision. Officers will be elected and all duties and responsibilities pertaining to the Property Owners Association will be turned over to the property owners at that time. This association includes all property owners in the Dillons Ridge Subdivision; however, it has no authority over the owners of lots 19-34, Phase II with regard to the administration or other duties and responsibilities pertaining to the private road shown on the plat of Dillons Ridge Subdivision as Tracy Lane and Cary Court.

ARTICLE IV

GENERAL PROVISIONS

1. Except as otherwise provided in paragraph 2 below, the protective covenants and restrictions contained in this Declaration shall continue in full force and effect until a termination or amendment of this Declaration is executed and acknowledged by the owner(s) of the majority of the lots in Dillons Ridge Subdivision and recorded among the land records of Hampshire County. So long as the Declarant owns any lot or lots on the property, no such termination or amendment shall be effective without its consent.

2. Any owner of a lot shall have the right to enforce all provisions of this Declaration by any proceeding in law or equity. Failure to enforce any provision of the Declaration shall in no event be deemed a waiver of the right to do so thereafter, nor shall any liability attach to any person for failure to enforce such provision. In the event any owner brings any proceeding in law or equity against any other owner to enforce any of the provisions of this Declaration, the losing party shall pay all of the costs incurred by the prevailing party in such proceeding, including reasonable attorney's fees.
3. In construing this Declaration, the use of one gender or number shall imply the use of any other gender or number as the context may require.
4. The determination by any court that any provision of this deed is unenforceable, invalid or void shall not affect the enforceability or validity of any other provisions.
5. This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purposes of protecting and enhancing the value, marketability and desirability of the property.

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AMENDMENT AND MODIFICATION OF DECLARATION OF PROTECTIVE COVENANTS  
AND RESTRICTIONS OF DILLONS RIDGE SUBDIVISION; AND CONSENT TO  
AMENDMENT AND MODIFICATION BY OWNERS

WITNESSETH: This Amendment and Modification of the Declaration of the Protective Covenants and Restrictions of Dillons Ridge Subdivision, and Consent of Owners to same, made this 9th day of June, 1994, by and between Woodland, Inc., a Virginia Corporation, Declarant in the aforementioned Covenants, party of the first part, and Benjamin M. Leal and Annie F. Leal, his wife; Jay D. Balding and Mary L. Hoover; and Lisa M. Grasty; Jerry L. Shumway and Kirsten S. Shumway, his wife; Don G. Hardy and Shirley C. Hardy, his wife, owners, parties of the second part;

WHEREAS, parties of the first part herein, namely, Woodland, Inc., is the owner and developer of Dillons Ridge Subdivision, situate in Capon District, Hampshire County, West Virginia, and said party of the first part is further the declarant in that certain document titled Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision, dated April 10, 1994, and of record in said Clerk's Office in Deed Book No. 351, at page 333; and,

WHEREAS, parties of the second part herein, Benjamin M. Leal and Annie F. Leal, his wife, are the owners of Parcel 4, Phase I, of Dillons Ridge Subdivision, which was conveyed unto them by deed of Woodland, Inc., dated April 26, 1994, and is of record in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, in Deed Book No. 351, at page 426; and,

WHEREAS, parties of the second part herein, Jay D. Balding and Mary L. Hoover, are the owners of Parcel 2, Phase I, of Dillons Ridge Subdivision, which was conveyed unto them by deed of Woodland, Inc., dated May 16, 1994, and of record in said Clerk's Office in Deed Book No. 351, at page \_\_\_\_; and,

WHEREAS, parties of the second part herein, Lisa M. Grasty, is the owner of Parcel 8, Phase I, of Dillons Ridge Subdivision, which was conveyed unto her by deed of Woodland, Inc., dated May

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6, 1994, and is of record in said Clerk's Office in Deed Book No. 351, at page 680; and,

WHEREAS, parties of the second part herein, Jerry L. Shumway and Kirsten S. Shumway, his wife, are in the process of purchasing Parcel Nos. 6 and 7, Phase I, of Dillons Ridge Subdivision, and a deed from Woodland, Inc., unto the Shumways, dated May 20, 1994, shall be recorded prior to or contemporaneously with the recordation of this instrument; and,

WHEREAS, parties of the second part herein, Don G. Hardy and Shirley C. Hardy, his wife, are in the process of purchasing Parcel 25, Phase III of Dillons Ridge Subdivision by deed of Woodland, Inc., dated June 9, 1994, and which shall be recorded prior to or contemporaneously with the recordation of this instrument; and,

WHEREAS, party of the first part herein, does now desire to change, modify and amend said covenants, and as each of the parties of the second part herein are the sole owners other than party of the first part of the lots in Dillons Ridge Subdivision, said owners do desire to consent to a change and modification of the covenants as desired and set forth hereinafter by Woodland, Inc.,

NOW, THEREFORE, THIS CONTRACT AND AGREEMENT, TO WIT:

WITNESSETH: That for and in consideration of the sum of \$ 10.00 cash in hand paid, receipt whereof being hereby acknowledged by each of the parties hereto to the other, the said parties do contract and agree as follows:

1. The party of the first part, Woodland, Inc., Declarant in the aforementioned Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision, does hereby modify, change, and amend Article I, Section k, of said Covenants, so that same shall now be read, interpreted and enforced forever hereafter, as follows:

k. The Declarant hereby creates a perpetual easement in favor of the Declarant and all lot owners on, over under, and across the ingress and egress easement area and on, over, under and across a strip of land thirty (30) feet wide as follows:

There shall be a 30' public utility easement adjacent to all road rights of way and the perimeter boundary lines of this subdivision. In addition, there shall be a 30' public utility easement along all interior lot lines, 15' on either side of said lot lines as an easement appurtenant to each lot in the property for the installation, use, maintenance, repair, and replacement of public and private utilities, including sewer, water, gas, electricity, cable television, telephone, and telegraph. HOWEVER, should any person at any time purchase or come to own two or more adjacent lots, all interior easements as set forth herein shall be automatically voided and terminated unless same is already being used as a public utility easement. Further, should a party owning two or more adjacent parcels subsequently sell one parcel, said interior utility easement shall automatically become reinstated and recreated by operation of this instrument, as it is the purpose of this amendment to permit and encourage the purchase and ownership of more than one adjacent lots to create the best available home sites for owners and to allow them to enjoy the full use of their properties without restrictions or limitations from interior easements which would restrict any buildings, improvements, etc., being constructed thereon. Said easement areas are not dedicated to the public. Any person exercising the easement rights granted hereby shall repair any damage to an easement area caused by such person, including but not limited to back filling of trenches, replacement of pavement, sod, fences, shrubbery, and landscaping, but not the placement of large trees.

2. Party of the first part does further hereby amend, change and modify Article I, Section d, of the aforesaid covenants so that same shall hereafter read and be interpreted and enforceable as follows:

d. Except as hereinafter set forth in Subsection k of this Article, as amended, no owner shall erect or suffer to be erected any structure within, or otherwise obstruct, any easement across his lot, nor divert or otherwise interfere with the natural flow

of surface water, except that a pond which is approved by the proper authorities is permitted, nor obstruct any drainage ditch.

3. It now further appearing that Dillons Ridge Subdivision shall consist of three phases rather than two as originally contemplated, it is now specifically contracted and agreed between the parties hereto that Phase III shall also be sold subject to and bound by the Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision in the same form and manner as are Phases I and II, and henceforth, any and all parcels contained in Phase III of Dillons Ridge Subdivision shall be sold subject to said Covenants and the Amendments thereto as contained in this instrument.

4. Article II of the Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision shall now be changed as follows:

Phase III shall be substituted in place of Phase II in each and every place Phase II appears throughout Article II of the above set forth covenants, as only Phase III shall be subject to the rights of way and ingress/egress easement areas designated as Tracy Road and Cary Court on the plats of Dillons Ridge Subdivision which are of record in said Clerk's Office. Further, Phase II shall be deleted from Article II, as Phase II shall be comprised of Parcels 12 through 18.


5. All other covenants as set forth in the above referenced instrument shall remain in full force and effect and shall be binding upon all of the parties hereto their heirs, successors and assigns, subject only to the changes and modifications as set forth herein, which shall also be binding upon all of the parties hereto, their heirs, successors and assigns.

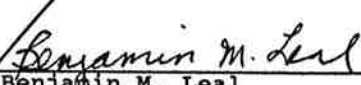
6. All parties of the second part herein as owners of lots in Dillons Ridge Subdivision do join in the execution of this instrument to expressly consent, ratify and approve the amendments and modifications to the Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision as set forth herein, and

do hereby agree to be bound by same along with their heirs, successors and assigns, and the Declaration of Protective Covenants and Restrictions of Dillons Ridge Subdivision and the Amendments and modifications contained in this instrument shall be binding and enforceable on all parcels of Dillons Ridge Subdivision including Phases I, II, and III.

WITNESS the following signatures and seals:

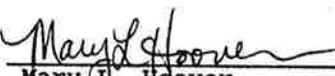
WOODLAND, INC.,  
A VIRGINIA CORPORATION

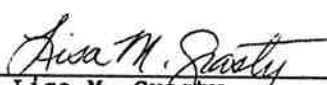
By:  (SEAL)  
Cary E. Longest, Vice President

 (SEAL)  
Benjamin M. Leal

 (SEAL)  
Annie F. Leal

 (SEAL)  
Jay D. Balding

 (SEAL)  
Mary L. Hoover

 (SEAL)  
Lisa M. Grasty

 (SEAL)  
Jerry L. Shumway

 (SEAL)  
Kirsten S. Shumway

 (SEAL)  
Don G. Hardy

 (SEAL)  
Shirley G. Hardy