

# ***HCHOA***

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
(BYLAWS) OF**

**HICKORY CORNER SUBDIVISION**

**HOME OWNERS ASSOCIATION**

**Final Version January 2006 - Issued**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
(BYLAWS) OF  
HICKORY CORNER SUBDIVISION**

**Reference: Hickory Corner Subdivision represented by the HCHOA (Hickory Corner Home Owners Association). Brackets [ ] – denote a helpful language version of the paragraph above, not an interpretation.**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter – Bylaws) OF HICKORY CORNER SUBDIVISION (hereafter – HCHOA), is made this 1st day of January, 2006, by HCHOA, as the owners of all that certain tract of land originally containing 40.371 acres, more or less, situated in Gore District, Hampshire County, West Virginia, and known as Hickory Corner Subdivision, as shown on plat Book 9 at page 269, and of record in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, in Map Book 9, at page 269, and is the same tract or parcel of real estate conveyed, duly recorded in the aforesaid Clerk's Office in Deed Book No. 415, at Page 448.

[These BYLAWS OF HCHOA, is revised and accepted on January 1, 2006 by the HCHOA, the owners of personal tracts of land in the subdivision.]

All of the Property described above, Lots 1-19, inclusive, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which shall be covenants running with the Property and every lot and parcel 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. Lots 2-17, inclusive, shall be subject to road assessment. These covenants shall be binding on all parties having any right, title or interest in the described Property or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. **No part of these Bylaws shall supersede Federal, State, or local laws.**

[All owners must belong to and abide by the following BYLAWS. This includes future sellers and buyers. There are no exceptions unless stated in following Articles.]

## ARTICLE I

HCHOA is an unincorporated association organized under the West Virginia Uniform Common Interest Ownership action (Sections 36B-1-101 et seq. of the West Virginia Code) (the "Act") for the following purposes: (a) to administer the Bylaws of HCHOA in such a manner as to conserve and protect the value of all the Property; (b) to assess, collect and disburse the assessments authorized by Article II of this Declaration; (c) to promote the peace, health, comfort, safety and general welfare of its members; and to do all other things permitted to similar associations by the Act.

[The HCHOA is created to perform the duties of general business. They collect fees, make changes agreed upon by a vote of the members, and help protect and promote peace for all homeowners. This is done under the laws of West Virginia.]

Every owner of a lot designated as such on the attached Plat(s) shall, upon accepting a deed to such lot, automatically become a member of Association by reason of which such ownership so long as he remains an owner of such lot. (One who owns an interest in a lot solely as security for the repayment of an obligation shall not be a member.) Members shall be personally liable, jointly and severally with all other owners of their lots, for complying with the provisions of this Declaration and the reasonable rules and regulations promulgated under it by the Executive Board of the Association, and for the payment of all assessments and charges imposed upon their lots during the period of their ownership. A member may not escape his membership responsibilities by non-use of the Association facilities or abandonment of a lot.

[All homeowners automatically belong to the association. There are only the following lot exceptions ( 20, ). Members are personally responsible for their actions. Changes made by the Executive Board and/or the association members become as steadfast as the original set of covenants. A member may not escape his membership responsibilities by non-use of the Association facilities or abandonment of a lot. ]

The affairs of the Association shall be managed by an Executive Board consisting of not less than three members. The Executive Board of the Association shall have the powers necessary and appropriate for carrying out the purposes the Association. The

Executive Board members must be owners of lots within the Property. The Executive Board shall consist of elected officers of the Association, which shall include at least a president, secretary and treasurer. The Bylaws of HCHOA may hereafter be amended by a 2/3 majority vote of ALL the owners of Lot Nos. 1 through 19, inclusive, at a meeting of owners called for that purpose or a general scheduled meeting. A notice must be sent to all owners containing and explaining the change(s) no less than 30 days before the meeting date.

[The Board of directors shall manage and have sufficient authority to carry out the tasks of general business. As the offices of president, treasurer, and secretary are placed; those association members will constitute the Executive Board. The HCHOA may make changes to the Bylaws with a 2/3 majority vote of ALL members.]

The Executive Board may make emergency decisions with a cost no more than \$200 and/or until ratified by the next held meeting.

The owner(s) of each lot, designated as a lot on the attached plat, shall be entitled to one vote for each lot owned in the election of the Executive Board members and on such other matters as may properly come before the membership. Voting shall be in accordance with Section 36B-3-110 of the Act. Four (4) lots constitute a quorum.

Proxy votes must be in writing to the Secretary (or substitute) on or before the meeting date.

## **ARTICLE II ASSESSMENTS**

Each owner of each lot shown on the Plat agrees to pay, as his personal obligation, such assessments as are authorized by this Declaration and levied by the Executive Board. Every such assessment shall also be a continuing lien upon the lot against which the assessment is made. The sale of any lot pursuant to a foreclosure of a deed of trust on the lot (or deed in lieu of such foreclosure), shall extinguish the lien of such assessments as to payments which became due prior to such foreclosure sale or deed in lieu of foreclosure, but shall not extinguish the personal liability of the owner of such

unpaid assessments which became due during his period of ownership. The lien provided for herein shall be subordinate to the lien of any first deed of trust except for assessments which accrued prior to the date such deed of trust was recorded.

[Each owner is responsible for dues or assessments based on expenses of HCHOA. If you are no longer the owner, you are not responsible for that assessment. If you are in the middle of a foreclosure or sale but still hold the deed by law, then you are still responsible. Once assessed, you owe that money even if you are no longer the owner after the assessment date.]

The Executive Board shall fix each year an annual assessment equally against each lot in an amount appropriate to and used exclusively to carry out the purposes of the Association described in Article 1, including the funding of reasonable reserved for construction, maintenance and repair of roadway, and the timely construction repair and replacement of capital improvements. The maximum annual assessment for each lot, until changed by 2/3<sup>rd</sup> majority vote of the PRESENT AND PROXY membership as hereafter described, shall be One Hundred Dollars (\$100.00) per lot. The Executive Board may, prior to the Beginning of each year, set an annual assessment for such year which does not exceed this maximum, and if the Board should fail to fix an assessment for any year, the previous year's assessment shall apply. The maximum annual assessment may be modified or waived for one or more years with the approval of the Executive Board and a 2/3<sup>rd</sup> majority vote of the PRESENT AND PROXY members.

[The annual dues will be \$100 unless otherwise decided by the Executive Board and a 2/3<sup>rd</sup> majority vote of the PRESENT AND PROXY members. That may change year to year depending on expenses and long term HCHOA goals. Other assessments may be made in addition to the annual dues.]

Funds collected for the road-use annual dues will be paper separated from maintenance and special needs funds to issue to the intended purpose. Change of use for any fund or amount from the original designation must be approved by a 2/3<sup>rd</sup> PRESENT AND PROXY majority vote.

The Executive Board may also levy a special assessment against some or all of the lots on the Property, applicable to not more than five years, for the purpose of defraying, in whole or in part, the cost of any acquisition or construction, reconstruction, repair or replacement of capital improvement, including fixtures and personal property thereon, provided that such special assessment is approved by 2/3<sup>rd</sup> majority vote of the owners of those lots which would be subject to the proposed special assessment.

The Executive Board may also levy a maintenance assessment on any lot whose owner fails to maintain or restore the lot and improvements on it, as required by Article III of the Declaration. Such a maintenance assessment shall be limited to the amount necessary to meet the cost of the maintenance or restoration and other charges, if any, permitted under this Declaration, and may not be imposed until the Board has given the owner at least thirty days notice of its intention to undertake such maintenance or restoration and afforded the owner an opportunity to be heard by the Board on the matter.

[The Executive Board has the authority after proper notification to have work done that an owner should have done and bill that owner to recover those costs. They also have the authority to recover other costs and costs incurred because of the original problem. (Below paragraph)]

The Association shall charge the owner: a) a late fee of 10% annually on overdue assessments. The deadline for annual dues is January 31<sup>st</sup> of each year. b) the costs, including attorney's fees and court costs, for collection of assessments and of enforcing any of the provisions of this declaration; and c) interest on overdue sums, up to the maximum rate permitted by law. Any such charges shall be added to and become a part of the lienable assessment of the lot, and they may be awarded by a court as part of its judgment in any proceeding in law or in equity.

**PROVIDED THAT THE OWNERS OF LOTS 1, 18, and 19, AS SET FORTH ON THE PLAT, SHALL NOT BE REQUIRED TO PAY ANY ASSESSMENT FOR ROAD CONSTRUCTION, MAINTENANCE, AND REPAIR.** The owners of Lots 1, 18, and 19 may be required to pay an assessment lawfully issued as set forth in these Declarations for other reasons as set forth by the Association except Road construction, maintenance, and repair.

[It should be understood that for the same reasons stated above concerning lots not normally assessed for annual road work dues, no special assessment road work or maintenance can be made.]

**ARTICLE III**  
**USE RESTRICTIONS**

The following restrictions shall apply to Lot Nos. 1 through 19 of the Property.

- a) No signs of any nature shall be erected on any lot except for sale and for directional and informational signs or under the authority of HCHOA.
- b) No owners 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 fifteen (15) inch in diameter culvert, or larger if necessary shall be used in constructing the driveway in order to prohibit blockage of natural drainage. No parking is permitted upon the right-of-way called Hickory Lane at any time. {On special occasions and so as not to cause undo hardships on niehbohrs, parking will be allowed on the street for family gatherings, block parties etc.}
- c) Any motor vehicle which does not have a current license plate or inspection sticker will not be permitted on lot longer than three (3) months after the expiration date. The use of any dirt bikes, 3 or 4 wheelers, and motor cycles without current license or inspection stickers, all terrains vehicles, or other similar motorized conveyance within the subdivision is prohibited.
- d) No buildings of a temporary nature shall be erected or placed on any lot. No building shall be erected closer than fifty (50) feet from the front property line, nor closer than fifteen (15) feet to the side or rear property lines, with the exception that where permitted and two or more lots are used together for the consideration of one dwelling, then said fifteen (15) feet setback shall apply only to the outside lines.
- e) Not more than one single-family residence shall be erected on a lot. The residence shall contain a minimum of one thousand (1,000) square feet of living are, excluding basement, garage, and porches.
- f) There will be no burning of garbage or household trash.



- g) No portion of any lot may be used as a roadway or a right-of-way to any property not included on the above reference plat, except this restriction shall not apply to roadways or right-of-ways to any land (so set up by acceptance date of this revision) now owned as well as established easements for adjoining land owners.
- h) Each lot shall be used for residential purposes only, and any garage or out building must conform generally in appearance and material with the dwelling on said lot.
- i) 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 or cats are permitted, provided that no owners have more than a total of two (2) such animals per lot or household whichever is less. All dogs must be restrained within the owner's lot so as to not trespass on other owner's lots.
- j) No dwelling's less than twenty-four (24) feet are allowed.
- k) All dwellings must be placed upon a permanent masonry foundation. 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 or trash shall be permitted to accumulate or remain on any lot.
- l) All dwellings placed on any lot must have septic systems and wells that comply with the regulations of Hampshire County Health Department. No freestanding toilets are allowed in the subdivision except while the house is being built. All waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept out of the view of the public.
- m) No owner may rent out, on a permanent basis, the lot/structure without approval of HCHOA. This must be done by written application.
- n) Each lot owner shall have the right to ingress or egress from his lot over the right-of-ways and roadways as shown on the subdivision plat (attached).

- o) 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 a 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 Executive Board, upon a favorable 2/3 vote of ALL members may act to enforce any violation of the covenant or other terms of these covenants. Failure to enforce any provision herein shall in no way be deemed a waiver of the right to do so hereafter.
- p) The association, by vote of 2/3 of it's PRESENT AND PROXY members, may make additional rules, covenants, and restriction for the use of the property, which together with (lie above, may be enforced by fines, or other penalties. By-Laws may be established by the association upon a 2/3 vote of the PRESENT AND PROXY owners.
- q) All exterior construction must be completed and closed within nine (9) months of the commencement of the 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.
- r) As part of the development of any lot, the owner shall provide adequate off street parking for himself and his guests.
- s) All rights of way as shown on the plat of the property shall be maintained as private roads by the Association. At such time as a majority of the lot owners shall request that the State assume control of said right of way in the subdivision, and the State agrees to accept the road, each lot owner shall execute any and all documents necessary to accomplish dedication of the roads to the State. This paragraph shall not be interpreted, however, as implying any obligation on the part of the Declarant to make any changes or improvements in the road' other than as required for approval of the subdivision plan.

- t) Any damage done to a roadway by an owner, or the family member, guest, or invitee of an owner shall be the responsibility of such owner to repair. If an owner fails to make any repair required of him under this section within thirty (30) days of written notice from the Association, then the Association may make such repairs as the agent of the owner and the costs of such repairs shall constitute a maintenance assessment against such owner's lot. Such assessment shall bear interest and be collectible as provided for in Article III paragraph (n) and/or Article II of this Declaration.

#### **ARTICLE IV**

##### **DECLARATIONS REQUIRED UNDER ACT**

In accordance with Section 36B-2-105 of the West Virginia Code (as amended), and other provisions of the West Virginia Common Interest Ownership Act, the party of the first part does hereby declare, in addition to other matters set forth in this declaration:

1. The name of this common interest community shall be HCHOA and it is a "planned community" within the meaning of the aforesaid Act;
2. The community is located entirely in Hampshire County, West Virginia;
3. The real estate included in the community are set forth on the attached Plat;
4. The boundaries of each lot are shown on the attached Plat;
5. The record data on easements and licenses appurtenant to or included in the community are shown on the herein referenced plat.

#### **ARTICLE V**

##### **GENERAL PROVISIONS**

- a) Invalidation 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.
- b) A court overturning a rule especially specific to an argument does not cancel that rule or the covenants as a whole

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. The Executive Board shall have the right to interpret all provisions of this Declaration so as to advance the said purposes.

IN WITNESS WHEREOF, the Home Owners has caused this Declaration of Bylaws of Hickory Corner Subdivision, to be executed this 1st day of January 2006.

HCHOA – End of Bylaw v.03/22/2006

Bill: 115-03

Christopher A. Davis  
Attorney

61390

BOOK 424 PAGE 469

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
HICKORY CORNER SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
HICKORY CORNER SUBDIVISION, is made this 12<sup>th</sup> day of June, 2003, by Minor M.  
Watts, Jr., ("the Declarant"), as the owner of all that certain tract of land originally containing  
40.371 acres, more or less, situated in Gore District, Hampshire County, West Virginia,  
and known as Hickory Corner Subdivision, as shown on plat <sup>Book</sup> 9 at page 269, and of  
record in the Office of the Clerk of the County Commission of Hampshire County, West  
Virginia, in Map Book 9, at page 269, and is the same tract or parcel of real estate  
conveyed unto Minor M. Watts, Jr., duly recorded in the aforesaid Clerk's Office in Deed  
Book No. 415, at Page 448. The tract of land thus identified shall be referred to in this  
declaration as "the Property".

NOW, Therefore, Declarant hereby declares that Lot Nos. 2 through 17, inclusive, shall  
be subject to the Road Assessment described hereafter. All of the Property described above,  
Lots 1-19, inclusive, shall be held, sold and conveyed subject to the following covenants,  
conditions, restrictions and easements, which shall be covenants running with the Property and  
every lot and parcel 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 hereof, their heirs, successors and assigns, and shall inure  
to the benefit of each owner thereof.

**ARTICLE I**

Hickory Corner Subdivision is an unincorporated association organized under the  
West Virginia Uniform Common Interest Ownership Act (Sections 36B-1-101 et seq. of the  
West Virginia Code) (the "Act") for the following purposes: (a) to administer the covenants,  
conditions and restrictions of Hickory Corner Subdivision in such a manner as to conserve and  
protect the value of all the Property; (b) to assess, collect and disburse the assessments  
authorized by Article II of this Declaration; (c) to promote the peace, health, comfort, safety  
and general welfare of its members; and to do all other things permitted to similar associations



Every owner of a lot designated as such on the attached Plat(s) shall, upon accepting a deed to such lot, automatically become a member of Association by reason of which such ownership so long as he remains an owner of such lot. (One who owns an interest in a lot solely as security for the repayment of an obligation shall not be a member.) Members shall be personally liable, jointly and severally with all other owners of their lots, for complying with the provisions of this Declaration and the reasonable rules and regulations promulgated under it by the Executive Board of the Association, and for the payment of all assessments and charges imposed upon their lots during the period of their ownership. A member may not escape his membership responsibilities by non-use of the Association facilities or abandonment of a lot.

The affairs of the Association shall be managed by an Executive Board consisting of not less than three members. The initial members of the Executive Board, consisting of one to three members, shall be appointed by Declarant, or their assigns. Except for the Executive Board members appointed by the Declarant, a majority of the Executive Board members must be owners of lots within the Property. The Executive Board shall elect officers of the Association, which shall include at least a president, secretary and treasurer. The initial executive Board shall adopt By-Laws for the Association prior to the conveyance for the first lot to an owner other than by the Declarant; such By-Laws may thereafter be amended by a majority vote of the owners of Lot Nos. 1 through 19, inclusive, at a meeting of owners called for that purpose, but during the period of Declarant control any By-Laws may not be amended without the Declarant's consent.

Subject to the provisions of Section 36B-3-103 of the Act, the Declarant shall, during any period of Declarant control, have the right to appoint or remove any officer of the Association, or any director of the Association appointed by it. Unless the Declarant voluntarily surrenders it sooner, the period of Declarant control shall terminate sixty (60) days after the Declarant has conveyed seventy-five percent (75%) of the lots to owners other than the Declarant.

The owner(s) of each lot, designated as a lot on the attached plat, shall be entitled to one vote for each lot owned in the election of the Executive Board members and on such other matters as may properly come before the membership. Voting shall be in accordance with



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

PO Box 1948  
Martinsburg, WV 26757  
Telephone: (304) 822-1500  
Fax: (304) 822-3582

The Executive Board of the Association shall have the powers necessary and appropriate for carrying out the purposes of the Association except as may be specifically reserved by this Declaration to the members or to the Declarant.

## ARTICLE II ASSESSMENTS

Each owner of each lot shown on the Plat agrees to pay, as his personal obligation, such assessments as are authorized by this Declaration and levied by the Executive Board. Every such assessment shall also be a continuing lien upon the lot against which the assessment is made. The sale of any lot pursuant to a foreclosure of a deed of trust on the lot (or deed in lieu of such foreclosure), shall extinguish the lien of such assessments as to payments which became due prior to such foreclosure sale or deed in lieu of foreclosure, but shall not extinguish the personal liability of the owner of such unpaid assessments which became due during his period of ownership. The lien provided for herein shall be subordinate to the lien of any first deed of trust, except for assessments which accrued prior to the date such deed of trust was recorded.

The Executive Board shall fix each year an annual assessment equally against each lot in an amount appropriate to and used exclusively to carry out the purposes of the Association described in Article I, including the funding of reasonable reserves for construction, maintenance and repair of roadway, and the timely construction repair and replacement of capital improvements. The maximum annual assessment for each lot, until changed by vote of the membership as hereafter described, shall be One Hundred Dollars (\$100.00) per lot, indexed automatically for inflation as provided in Section 36B-1-114 of the Act. The Executive Board may, prior to the Beginning of each year, set an annual assessment for such year which does not exceed this maximum, and if the Board should fail to fix an assessment for any year, the previous year's assessment shall apply. The maximum annual assessment may be modified or waived for one or more years with the approval of the Executive Board and a majority vote of the members, provided that during the period of Declarant control it may only be modified or waived with the unanimous consent of all owners.

The Executive Board may also levy a special assessment against some or all of the lots



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

P.O. Box 1949  
Rooney, WV 26757  
Telephone: (304) 822-3500  
Fax: (304) 822-3592

11 N. Washington Street  
Suite C  
Martinsburg, WV 26151

on the Property, applicable to not more than five years, for the purpose of defraying, in whole or in part, the cost of any acquisition or construction, reconstruction, repair or replacement of capital improvement, including fixtures and personal property thereon, provided that such special assessment is approved by majority vote of the owners of those lots which would be subject to the proposed special assessment.

The Executive Board may also levy a maintenance assessment on any lot whose owner fails to maintain or restore the lot and improvements on it, as required by Article III of the Declaration. Such a maintenance assessment shall be limited to the amount necessary to meet the cost of the maintenance or restoration and other charges, if any, permitted under this Declaration, and may not be imposed until the Board has given the owner at least thirty days notice of its intention to undertake such maintenance or restoration and afforded the owner an opportunity to be heard by the Board on the matter.

The Association may charge the owner: a) a late fee on overdue assessments, not to exceed ten percent of the assessment; b) the costs, including attorney's fees and court costs, for collection of assessments and of enforcing any of the provisions of this declaration; and c) interest on overdue sums, up to the maximum rate permitted by law. Any such charges shall be added to and become a part of the lienable assessment of the lot, and they may be awarded by a court as part of its judgment in any proceeding in law or in equity.

**PROVIDED THAT THE OWNERS OF LOTS 1, 18, and 19, AS SET FORTH ON THE PLAT, SHALL NOT BE REQUIRED TO PAY ANY ASSESSMENT FOR ROAD CONSTRUCTION, MAINTENANCE, AND REPAIR.** The owners of Lots 1, 18, and 19 may be required to pay an assessment lawfully issued as set forth in these Declarations for other reasons as set forth by the Association except Road construction, maintenance, and repair.

### ARTICLE III USE RESTRICTIONS

The following restrictions shall apply to Lot Nos. 1 through 19 of the Property.

- a) No signs of any nature shall be erected on any lot, except for sale or rental signs, and for directional and informational signs of Declarant.
- b) ~~No owners~~ **No owners** of any lot shall interfere with the natural drainage of surface water



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

170 Hwy 1930  
Riverside, W.V. 25971  
Telephone: (204) 832-1500  
Fax: (304) 832-1582



of a driveway into any lot, a fifteen (15) inch in diameter culvert, or larger if necessary shall be used in constructing the driveway in order to prohibit blockage of natural drainage. No parking is permitted upon the right-of-way called Hickory Lane at any time.

- c) Any motor vehicle which does not have a current license plate or inspection sticker will not be permitted on lot longer than three (3) months after the expiration date. The use of any dirt bikes, 3 or 4 wheelers, motorcycles without current license or inspection stickers, all terrain vehicles, or other similar motorized conveyance within the subdivision is prohibited.
- d) No buildings of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months from the commencement of a construction. No building shall be erected closer than fifty (50) feet from the front property line, nor closer than fifteen (15) feet to the side or rear property lines, with the exception that where permitted and two or more lots are used together for the consideration of one dwelling, then said fifteen (15) feet setback shall apply only to the outside lines unless otherwise approved by the Declarant or its assigns.
- e) Not more than one single family residence shall be erected on a lot. The residence shall contain a minimum of one thousand (1,000) square feet of living area, excluding basement, garage, and porches.
- f) All residences shall be constructed with a 4 -12 roof pitch.
- g) No portion of any lot may be used as a roadway or a right-of-way to any property not included on the above reference plat, except this restriction shall not apply to roadways or right-of-ways to any land now owned or hereafter acquired by Declarant, as well as established easements for adjoining land owners.
- h) Each lot shall be used for residential purposes only, and any garage or out building must conform generally in appearance and material with the dwelling



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

PO Box 1940  
Rumney, WV 26757  
Telephone: (304) 822-1500  
Fax: (304) 522-3582

11 N. Washington Street

on said lot.

- i) 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 or cats are permitted, provided that no owners have more than a total of two (2) such animals per lot or household whichever is less. All dogs must be restrained within the owner's lot so as to not trespass on other owners lots.
- j) No dwelling's less than twenty-four (24) feet are allowed.
- k) All dwellings must be placed upon a permanent masonry foundation. 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 or trash shall be permitted to accumulate or remain on any lot.
- l) All dwellings placed on any lot must have septic systems and wells that comply with the regulations of Hampshire County Health Department. No free standing toilets are allowed in the subdivision except while the house is being built. All waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept out of the view of the public.
- m) The Declarant reserves unto himself and his assigns, the right to erect, maintain, operate, and replace telephone and electric light poles, conduits and related equipment and sewer and water lines and the right to grant easement of right-of-ways thereof on, over and under a strip of land twenty (20) feet along both sides of the forty (40) foot right-of-ways and along all property lines not serving as a center line for right-of-ways, in addition to any other instrument duly recorded to run along the side of the forty (40) foot right-of-way known as HICKORY LANE. The right-of-ways shall be subject to the common usage of the Declarant, their heirs and assigns.
- n) Each lot owner shall have the right to ingress or egress from his lot over the



Law Offices of  
Christopher A. Davis  
Attorney at Law

P.O. Box 1940  
Hannay, WV 26757  
Telephone: (304) 822-3500  
Fax: (304) 822-3502

right-of-ways and roadways as shown on the subdivision plat (attached).

- o) 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 a 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 the covenant or other terms 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.
- p) The association, by vote of 2/3 of its members, may make additional rules, covenants, and restriction for the use of the property, which together with the above, may be enforced by fines, or other penalties. By-laws may be established by the association upon a 2/3 vote of the owners.
- q) All exterior construction must be completed and closed within ninety (9) months of the commencement of the 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 case for a period not to exceed six (6) months.
- r) As part of the development of any lot, the owner shall provide adequate off-street parking for himself and his guests.
- s) All rights of way as shown on the plat of the property shall be maintained as private roads by the Association. At such time as a majority of the lot owners shall request that the State assume control of said right of way in this subdivision, and the State agrees to accept the road, each lot owner shall execute any and all documents necessary to accomplish dedication of the roads to the State. This paragraph shall not be interpreted, however, as implying any obligation on the part of the Declarant to make any changes or improvements in the road, other than as required for approval of the subdivision plat.
- t) Any damage done to a roadway by an owner, or the family member, guest, or



Law Offices of  
Christopher A. Davis  
Attorney and Counselor at Law

Romney, W.V. 26101-3441  
Telephone: 304-847-5271  
Telex: 304-847-5271  
Fax: 304-847-5271

owner fails to make any repair required of him under this section within thirty (30) days of written notice from the Association, then the Association may make such repairs as the agent of the owner and the costs of such repairs shall constitute a maintenance assessment against such owner's lot. Such assessment shall bear interest and be collectible as provided for in Article III paragraph (n) and/or Article II of this Declaration.

- u) Seventy-five (75%) percent of lot owners is required to change covenants.

#### ARTICLE IV DECLARATIONS REQUIRED UNDER ACT

In accordance with Section 36B-2-105 of the West Virginia Code (as amended), and other provisions of the West Virginia Common Interest Ownership Act, the party of the first part does hereby declare, in addition to other matters set forth in this declaration:

1. The name of this common interest community shall be Hickory Corner Subdivision and it is a "planned community" within the meaning of the aforesaid Act;
2. The community is located entirely in Hampshire County, West Virginia;
3. The real estate included in the community are set forth on the attached Plat;
4. Declarant reserves the right to develop this property, and to add any additional lots to Hickory Corner Subdivision.
5. The boundaries of each lot are shown on the attached Plat;
6. The Declarant reserves the following: "special Declarant right" within the meaning of Section 36Bd-1-103(29) of the said Act; to maintain offices for sales if desired and a reasonable number of signs advertising the community until the last lot owned by the Declarant is sold and conveyed; to use easements through the Property for the purpose of making improvements within the community, until the last lot owned by Declarant is sold and conveyed; and to appoint or remove officers of the Executive Board members of Hickory Corner Subdivision Association, during the period and under the circumstances



Law Offices of  
Christopher A. Davis  
*Attorneys and Counselors at Law*

PO Box 1940  
Martinsburg, WV 26757  
Telephone: (304) 822-3500  
Fax: (304) 822-3582

11 N. Washington Street  
Martinsburg, WV

described in this Declaration;

7. The annual assessments for the common expenses of the community shall be levied equally against each lot, and each lot shall be entitled to one vote in the Hickory Corner Subdivision Association;
8. The restrictions on use of the lots shall be as set forth in this declaration. There are no restrictions on occupancy of the lots. There are no restrictions on alienation of the lots, nor on the amount for which lots may be sold;
9. Easements and rights of way not of record presently used by other users appurtenant to or included in the community are shown on the herein referenced plat;
10. The record data on easements and licenses appurtenant to or included in the community are shown on the herein referenced plat.

## ARTICLE V GENERAL PROVISIONS

- a) The association through its board of directors by 2/3 favorable votes 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 inequity, 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.
- b) 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.
- c) 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.



Law Offices of  
Christopher A. Davis  
*Attorneys and Counselors at Law*

P.O. Box 1940  
Reno, NV 89501  
Telephone: (775) 822-3501  
Fax: (775) 822-1582

d) In construing this Declaration, the use of the gender or number shall imply the use of any other gender or number as the context may require; the requirement for a percentage approval by the lot owners of any amendment to the Declaration, the By-Laws or conduct any business of the Association must be approved by the percentage of lot owners required to approve any amendment to the Declaration, the By-Laws or any business of the Association, said vote of each lot owner may be in person, or by proxy if not present, at the meeting called for such purpose, as set forth in 36B-3-110 of the West Virginia Code (as amended).

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.

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. The Executive Board shall have the right to interpret all provisions of this Declaration so as to advance the said purposes.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions of Hickory Corner Subdivision, to be executed this 3rd day of July, 2003.

HICKORY CORNER SUBDIVISION

BY: *Minor M. Watts, Jr.*  
MINOR M. WATTS, JR.

BY: *Robbin A. Watts*  
ROBBIN A. WATTS



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

120, Box 1940  
Romney, WV 26757  
Telephone: (304) 822-1500  
Fax: (304) 822-1562

STATE OF WEST VIRGINIA,

COUNTY OF HAMPSHIRE, TO WIT:

I, Linda J. Daugherty, a Notary Public in and for the aforesaid County and

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
HICKORY CORNER SUBDIVISION

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HICKORY CORNER SUBDIVISION, is made his 2<sup>nd</sup> day of December, 2003, by Minor M. Watts, Jr. and Robbin A. Watts, ("the Declarant"), as the owner of all that certain tract of land containing 40.371 acres, more or less, situated in Gore District, Hampshire County, West Virginia, and known as Hickory Corner Subdivision, as shown on that certain plat of record in the office of the Clerk of the Hampshire County Commission in Map Book 9 at page 269 and is the same tract or parcel of real estate conveyed unto Minor M. Watts, Jr., duly recorded in the aforesaid Clerk's Office in Deed Book No. 415, at Page 448. The tract of land thus identified shall be referred to in this declaration as "the Property".

Further the following lot owners join in signing the following amendments to indicate their approval of the amendments set forth herein: Anita Cienny owner of Lot 1; Minor M. Watts, III owner of Lot 4; David Shandon Watts owner of Lot 7; Donald H. Oates owner of Lots 12 & 13; and Cheryl and Thomas Hahn owners of Lot 19.

NOW, Therefore, Declarant and the above referenced lot owners do hereby amend the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HICKORY CORNER SUBDIVISION as originally declared on June 12, 2003 and of record in the Office of the Clerk of the Hampshire County Commission in Deed Book 424 at Page 469 pursuant to Article V (b) of the foregoing Declarations as follows:

1. That Article III (g) of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HICKORY CORNER SUBDIVISION originally declared on June 12, 2003 and of record in the Office of the Clerk of the Hampshire County Commission in Deed Book 424 at Page 469 be amended to read as follows:

"(g) (1) No portion of any lot may be used as a roadway or a right-of-way to any property not included on the above referenced plat, except this restriction shall not apply to roadway or right-of-ways to any land not owned or hereafter acquired by Declarant,



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

13 • High Street • PO Box 1940  
Kumsey, WV 26757  
Telephone: (304) 822-1500  
Fax: (304) 322-3562

11 N. Washington Street  
Suite C

as well as established easements for adjoining land owners.

- (2) Provided that a portion of Lot 10 shall be permitted to be used as a roadway or a right-of-way/easement for ingress/egress; access to and provision of utility services; and all other pertinent reasons to that certain adjoining acreage owned by Scarlett Davis and Ronald W. Mason containing 140 acres more or less. However, it is understood that should the adjoining acreage be subdivided in any manner into more than one parcel containing 140 acres more or less and should Hickory Corner Lane be extended across the right-of-way/easement on Lot 10 to access those subdivided parcels then the owners of said parcel(s) shall pay an assessment (road maintenance fees, etc.) for their ability to use all of Hickory Corner Lane in the Hickory Corner Subdivision the same as any other lot owner in the Hickory Corner Subdivision as set forth in Article II of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HICKORY CORNER SUBDIVISION originally declared on June 12, 2003 and of record in the Office of the Clerk of the Hampshire County Commission in Deed Book 424 at Page 469 for each and every parcel having access or possible usage of the roadway or right-of-way easement across Lot 10 of Hickory Corner Subdivision.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions of Hickory Corner Subdivision, to be executed this 2<sup>nd</sup> day of December, 2003.



Law Offices of  
Christopher A. Davis  
Attorneys and Counselors at Law

11 N. Washington Street  
PO Box 1940  
Rome, WV 26757  
Telephone: (304) 822-3300  
Fax: (304) 822-3382

11 N. Washington Street  
Rome, WV

HICKORY CORNER SUBDIVISION

BY:   
MINOR M. WATTS, JR.



2197101  
TM 38-18.2  
Woodland

# Hickory Corner Subdivision

