

**FALCONWOOD/CACAPON HEIGHTS  
PROPERTY OWNERS ASSOCIATION BY-LAWS**

Whereas the lot owners of Falconwood/Cacapon Heights Subdivision being interested in maintaining the road and articles of the Covenant to the property have formed an association and whereas it is deemed advisable to have criterion rules and regulations for the organization: Now: Therefore: be it resolved that the following be adapted as by-laws of said organization.

**ARTICLE I - - NAME**

Section 1: This organization shall be known by the name and title of Falconwood/Cacapon Heights Property Owners Association (F/CHPOA).

**ARTICLE II - - OBJECTIVES**

Section 1: The objectives of this organization shall be to:

(A) Develop and maintain Falconwood and Cacapon Heights Roads to the mutual and equal benefit to all owners of the one hundred and sixty seven (167) Falconwood and Cacapon Heights lot owners bordering Falconwood Road, Falconwood Drive, Falcon Turn, Falcon Nest Road, Mountain Heights Road, Mountain Top Road, Eastwood Drive and Westwood Drive. Reference Figure No. 1 Falconwood/Cacapon Heights Road System.

(B) Develop and maintain all objectives set forth in covenant and deeds to the mutual and equal benefit of all one hundred and nine (109) Falconwood and sixty six (66) Cacapon Heights lot owners.

**ARTICLE III - - EASEMENTS AND RESTRICTIONS**

Section 1: The "Declaration of easements and restrictions Falconwood Subdivision", Appendix A, and the "Declaration of easements and restrictions Cacapon Heights Subdivision", Appendix B, and recorded among the Land Records of Hampshire County shall apply herein.

**ARTICLE IV - - MEMBERSHIPS**

Section 1: All 175 lot owners of record holding claim to property in the Falconwood Subdivision and the Cacapon Heights Subdivision shall be entitled to one membership per lot. Membership list is shown in Appendix C.

Section 2: Lot owners not wishing membership shall be assessed an amount equal to annual and special dues each year.

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Section 3: Each membership shall be entitled to one vote on any issue or motion before the association. Members must be present at time of voting; or may appoint an adult member in writing to cast a vote on their behalf.


Section 4: No member shall be allowed to vote who is delinquent in administrative or road fees.

**ARTICLE V - - GOVERNMENT**

Section 1: This organization's fiscal year shall be September 1 through August 31.

Section 2: The government and management of this organization shall be vested in the following Board of Directors, subject to the will of the membership: President, Vice-President, Treasurer, Secretary and Five (5) Trustees.

Section 3: No member shall serve on the Board of Directors who is delinquent in administrative or road fees.

 Section 4: Funds of this organization will be maintained in the Morgan County State Bank of Berkeley Springs, W.V., and may be withdrawn from the bank by the signatures of any two of the three authorized signatures (President, Vice President and Treasurer).

Section 5: No formal contract or agreement shall be entered into, for or on behalf of this organization, in the amount greater than \$1,000.00, without prior consent of the majority members present at a regular membership meeting.

Section 5: A vacancy in the office of President shall be filled by the Vice President until the next regular election. In the absence of the President and Vice President due to resignation or transfer of property, a new President and Vice President shall be selected at a special meeting called by any member. Notice of such meeting ~~shall have been mailed to the last known address of all members~~ 30 days prior to the meeting.

**ARTICLE VI - - MEETINGS**

Section 1: There shall be at least two (2) regular membership meetings during the fiscal year.

Section 2: Meetings of this organization shall be at the call of the President. The President must call a meeting upon the request of three members.

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Section 3: Minutes of all Board of Directors and General Membership meetings shall be mailed to members of F/CHPOA within thirty (30) days of subject meeting.

**ARTICLE VII - - ELECTIONS**

Section 1: Election of officers shall be conducted at a regular membership meeting annually.

Section 2: There shall be elected a President, Vice President, Secretary, Treasurer, and five (5) trustees with candidates nominated from the floor.

Section 3: No board members shall serve more than two (2) consecutive terms.

**ARTICLE VIII - - DUTIES OF OFFICERS**

Section 1: The President, as chief executive, shall preside at meetings and shall supervise the organization's affairs and activities. He or she shall insure collection of all dues and assessments and insurance of all disbursements. He or she shall arrange the time and place and give notice of all membership meetings. He or she shall have the power to take legal action consistent with the will of the membership to protect, promote or maintain the objectives of the organization.

Section 2: The Vice President shall assist the President in enforcing Association by-laws and implementing decisions of the Board of Directors and the general membership. He or she shall represent the President at general and board meetings in his or her absence. He or she shall serve with complete Presidential powers in the absence of the President due to resignation or property transfer until the next election.

Section 3: The Secretary shall record minutes at all general and board meetings and prepare all association correspondence and provide minutes to the membership.

Section 4: The Treasurer shall manage the association funds. He or she shall assess individual members of the association for annual association fees. He or she shall dispense association funds in accordance with the by-laws and at the direction of the Board of Directors. He or she shall provide the President with a monthly financial status report within 15 days after the end of the month.

Section 5: The Trustees shall attend all Board meetings and general membership meetings and perform duties as assigned by the Board of Directors.

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**ARTICLE IX - - QUORUM**

Section 1: A quorum shall consist of ten (10) members.

**ARTICLE X - - ASSESSMENTS**

Section 1: Both annual and special assessments shall be fixed at a uniform rate for all lots.

Section 2: The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the first lot to an owner. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year.

Section 3: The Board of Directors shall fix the amount of the annual assessment against each lot at least sixty (60) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto.

Section 4: Falconwood/Cacapon Heights Road fees are due September 1<sup>st</sup>. A late charge of 10% will be added to any assessment not postmarked by September 30<sup>th</sup> and following overdue accounts. If all fees and assessments are not paid in full by December 31<sup>st</sup>, action to file a lien will be put in progress.

Section 5: In the event it becomes necessary for the association to obtain the services of an attorney in connection with any breach of conditions herein set forth on the part of these by-laws, members deficient in association fees shall pay attorney fees and court costs.

Section 6: In addition to the annual assessments authorized, the association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the common area.

**ARTICLE XI - - AMENDMENTS**

Section 1: The by-laws may be amended at any meeting by a two-thirds (2/3) vote of the members present provided that a notice of intent to change by-laws is mailed to the last known address of all members thirty (30) days prior to the meeting.

**ARTICLE XII - - PARLIMENTARY AUTHORITY**

Section 1: Parlimentary Authority of this organization shall be Roberts Rules of Order revised.

**DECLARATION OF EASEMENTS AND RESTRICTIONS**  
**FALCONWOOD SUBDIVISION**

This conveyance shall be made subject to the following easements and restrictive covenants, which easements and covenants are to run with the land, and is of record in the office of the Clerk of the County Commission of Hampshire County, West Virginia.

1. Each OWNER of a lot, except lots numbered 8B, 9B, 10B, 11B, 12B, 13B, 15B, and 16B as shown on the "FALCONWOOD" Subdivision Plat, (being those lots which front on Hampshire Route 29/1 only, also known as "Pin Oak Road"), shall have an easement over and upon the existing roadway running through "FALCONWOOD" in the fifty (50) foot wide right of way provided therefor, depicted on the aforesaid Subdivision Plat of "FALCONWOOD", for ingress and egress to and from the lots fronting thereon and West Virginia Route 29, to be used in common with all such Owners.

2. Any maintenance, repair and reconstruction of the aforesaid roadway shall be performed on a continuing basis, and each OWNER, (except as to owners of lots numbered 8B, 9B, 10B, 11B, 12B, 13B, 15B, and 16B), shall contribute on an equal basis to the costs of such maintenance, repair and reconstruction, promptly upon receipt of an assessment therefor. Said roadway maintenance, however, shall not exceed \$35.00 annually, payable to an owners association, which shall account for any and all income and expenditures.

2A. The DEVELOPERS reserve unto themselves, their successors and/or assigns, an easement or right of way over, under and through a fifteen (15) foot wide strip of land paralleling each side of the aforesaid roadway and paralleling all side and rear lot boundary lines, as depicted on the aforesaid Plat of "FALCONWOOD", for the purpose of installing, erecting and maintaining telephone,

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TV cable and electric poles, lines, wires and associated equipment, as well as conduits and pipes for sewer, gas, water and storm drains.

3. Any lot in Falconwood Subdivision may be subdivided of record one (1) time, so long as each half so subdivided is not less than two (2) acres.

4. That no commercial or business of any type is permitted on any lot; that residential structures of a permanent nature, including mobile homes and double wides which are by foundation or basement construction made a part of the real estate, are permitted. The foregoing restriction shall not apply to licensed recreational and camper vehicles. Further, any mobile home or double wides must be maintained in excellent condition and appearance. No trucks, buses, old cars or unsightly vehicles of any type or description may be left, stored or abandoned on any lot.

4A. Notwithstanding paragraph 4, above, no house trailers will be allowed on any lot in "Falconwood" which fronts or borders on Falconwood Road or Mountaintop Road. This prohibition applies to all lots sold after June 30, 1983.

5. Sewerage and waste systems constructed on any lot shall conform to all applicable regulations of Hampshire County and the State of West Virginia.

6. No structure of any kind shall be built within twenty-five feet of any side or rear property line nor within twenty-five feet of any property line fronting on the aforesaid roadway as depicted on the aforesaid Plat of "FALCONWOOD".

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7. No driveway leading from the aforesaid roadway servicing "FALCONWOOD" may be constructed in such a manner as to impede the function of the road drainage ditches. For any driveway crossing a road drainage ditch, a culvert with a minimum diameter of twelve (12) inches must be used in the fashion to insure adequate water flow along road drainage ditches.

8. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

9. That the OWNER of any lot, his heirs and assigns, may not market commercially the timber on the land herein conveyed and that only such timber may be cut as would be needed so as to permit the OWNER, his heirs and assigns, to enjoy the full use and benefit of the real estate herein conveyed.

10. These Restrictions shall apply only to the lots as shown on the aforesaid Plat of "FALCONWOOD" and shall not be binding on or have any application whatsoever to any other property of the DEVELOPERS, their successors and assigns.

11. All the provisions set forth herein shall be deemed covenants running with the land and/or charges and liens upon the land and any and every conveyance of any lot in "FALCONWOOD" shall be absolutely subject to the provisions hereof whether or not it shall be so expressed in the deed, lease or other conveyance thereof.

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12. The restrictions provided for above shall inure to the benefit of and shall be enforceable by the DEVELOPERS, any ASSOCIATION formed and the OWNER of any lot, their respective personal representatives, heirs, successors and assigns until the 31st day of December in the year 1999. Prior to December 31, 1999, this Declaration may not be amended in any respect except by the execution of an instrument signed by the OWNERS of at least sixty-five percent (65%) of the lots in "FALCONWOOD", which instrument shall be filed for recording among the Land Records of Hampshire County.



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This conveyance shall be made subject to the following easements and restrictive covenants, which easements and covenants are to run with the land:

1. Each OWNER of a lot, shown on the Subdivision Plat, shall have an easement over and upon the existing roadways running through "CACAPON HEIGHTS" in the fifty (50) foot wide right of way provided therefor, depicted on the aforesaid Subdivision Plat, for ingress and egress to and from the lots fronting thereon and West Virginia Route 29, to be used in common with all such Owners.

2. Any maintenance, repair and reconstruction of the aforesaid roadway shall be performed on a continuing basis, and each OWNER shall contribute on an equal basis to the costs of such maintenance, repair and reconstruction, promptly upon receipt of an assessment therefor. Said roadway maintenance, however, shall not exceed \$35.00 annually, payable to an owners association, which shall account for any and all income and expenditures. This paragraph does not apply to Melan Construction Corporation, Inc., Developer.

3. The DEVELOPERS reserve unto themselves, their successors and/or assigns, an easement or right of way over, under and through a fifteen (15) foot wide strip of land paralleling each side of the aforesaid roadway and paralleling all side and rear lot boundary lines, as depicted on the aforesaid Plat for the purpose of installing, erecting and maintaining telephone, TV cable and electric poles, lines, wires and associated equipment, as well as conduits and pipes for sewer, gas, water and storm drains.

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4. That no commercial or business of any type is permitted on any lot; that residential structures of a permanent nature, including mobile homes and double wides which are by foundation or basement construction made a part of the real estate, are permitted. The foregoing restriction shall not apply to licensed recreational and camper vehicles. Furthur, any mobile home or double wides must be maintained in excellent condition and appearance. No trucks, buses, old cars or unsightly vehicles of any type or description may be left, stored or abandoned on any lot.

4A. Notwithstanding paragraph 4., above, no house trailer will be allowed to front on Falconwood Road, Mountain-Top Road, or Westwood Drive.

5. Sewerage and waste systems constructed on any lot shall conform to all applicable regulations of Hampshire County and the State of West Virginia.

6. No structure of any kind shall be built within twenty-five feet of any side or rear property line nor within twenty-five feet of any property line fronting on the aforesaid roadway as depicted on the aforesaid Plat.

7. No driveway leading from the aforesaid roadways may be constructed in such a manner as to impede the function of the road drainage ditches. For any driveway crossing a road drainage ditch, a culvert with a minimum diameter of twelve (12) inches must be used in the fashion to insure adequate water flow along road drainage ditches.

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8. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

9. That the OWNER of any lot, his heirs and assigns, may not market commercially the timber on the land herein conveyed and that only such timber may be cut as would be needed so as to permit the OWNER, his heirs and assigns, to enjoy the full use and benefit of the real estate herein conveyed.

10. These restrictions shall apply only to the lots as shown on the aforesaid Plat and shall not be binding on or have any application whatsoever to any other property of the DEVELOPERS, their successors and assigns.

11. All the provisions set forth herein shall be deemed covenants running with the land and/or charges and liens upon the land and any and every conveyance of any lot shall be absolutely subject to the provisions hereof whether or not it shall be so expressed in the deed, lease or other conveyance thereof.

12. The restrictions provided for above shall inure to the benefit of and shall be enforceable by the DEVELOPERS, any ASSOCIATION formed and the OWNER of any lot, their respective personal representatives, heirs, successors and assigns. This Declaration may be amended by the execution of an instrument signed by the OWNERS of at least sixty-five percent (65%) of the lots in "CACAPON HEIGHTS", which instrument must be filed for recording among the Land Records of Hampshire County, West Virginia.