

1880-446

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,
RESTRICTIONS
AND RESERVATIONS FOR HARPER ESTATES,
A RESIDENTIAL PLANNED COMMUNITY, SITUATE IN
MORGAN DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA

This Amended and Restated Declaration of Protective Covenants, Restrictions and Reservations for Harper Estates, a Residential Planned Community, created under the Uniform Common Interest Ownership Act codified in Chapter 36B of the Code of West Virginia of 1931, as amended, situate in Morgan District, Monongalia County, West Virginia, is made as of May 29, 2025, by Mountainscape Developments, LLC, a West Virginia limited liability company, as the Successor Declarant ("Mountainscape Developments" or the "Declarant").

RECITALS:

A. The Declarant created Harper Estates by that certain Declaration of Protective Covenants, Restrictions and Reservations for Harper Estates, a Residential Planned Community, Situate in Morgan District, Monongalia County, West Virginia, dated July 11, 2024, and recorded in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1852, at page 98 (the "Original Declaration").

B. The Declarant desires to amend and restate the Original Declaration in its entirety.

C. Simultaneously with the recording of this Amended and Restated Declaration, the Declaration shall record an amended Plat.

D. Richard and Rita Rodriguez, and A&M Homes LLC, a West Virginia limited liability company, as the only other Owners in Harper Estates, join in this Amended and Restated Declaration for the sole purpose of approving and consenting to this Amended and Restated Declaration to the extent such approvals and consents are necessary or required.

E. Harper Estates Development Owners Association, Inc., a West Virginia nonprofit corporation and the homeowners association for Harper Estates, joins in this Amended and Restated Declaration for the sole purpose of approving and consenting to this Amended and Restated Declaration to the extent such approval and consent are necessary or required.

NOW, THEREFORE, for the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declarant hereby amends and restates the Original Declaration in its entirety as follows:

AGREEMENT

NOW, THEREFORE, WITNESSETH, Mountainscape Developments hereby SUBMITS the Property to the Act and DECLARES that all Lots in Harper Estates shall be and are hereby

subject to the covenants, conditions, restrictions, reservations, easements and affirmative obligations provided and set out in this Declaration of Protective Covenants, Restrictions and Reservations for Harper Estates (this "Declaration"), and which shall be construed as restrictive covenants running with the land and which shall inure to the benefit of and be binding upon the Declarant, current and future Owners, and all other parties and persons acquiring land in Harper Estates, their heirs, personal representatives, successors and assigns.

Every person, firm and entity of every kind acquiring any interest in or to the Property, including any Lot, by acceptance of a deed or contract, or by any other means, shall take such interest subject to this Declaration and to the terms and conditions hereof, and shall be deemed to have agreed to them whether or not this Declaration shall be expressly referred to in such deed, contract, or document conveying any interest, whether or not the same shall be known to or accepted by any such person, and whether or not such person shall otherwise have consented in any way to this Declaration and its contents.

I. DEFINITIONS.

"Act" shall mean the Uniform Common Interest Ownership Act of West Virginia codified in Chapter 36-B of the Code of West Virginia of 1931, as amended.

"Architectural Review Committee" shall mean the group of persons appointed by the Executive Board to perform the duties in Article IV.

"Association" shall mean and refer to Harper Estates Development Owners Association, Inc., the association of Lots and Owners within Harper Estates.

"By-Laws" or "Bylaws" means the bylaws of the Association.

"Clerk's office" shall mean the office of the Clerk of the County Commission of Monongalia County, West Virginia.

"Common Elements" shall mean (i) all real property owned by the Association; (ii) all land, and the improvements situated thereon, within Harper Estates, that Declarant indicates on the Plat to be conveyed to the Association for the benefit and use of Members or, if not conveyed to the Association, is not part of a Lot and is for the benefit and use of the Association; (iii) all land, and the improvements situated thereon, that is situated within the boundaries of a Lot and designated on the Plat as land that is to be improved, maintained, repaired and replaced by the Association; and (iv) all real property, and the improvements situated thereon, within or adjacent to Harper Estates, located within dedicated rights-of-way with respect to which any governmental authority has not accepted responsibility for the maintenance thereof, but only until such time as a governmental authority has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association under this clause have been expressly approved by either Declarant or the Executive Board.

"Common Expenses" shall mean expenditures made by or financial liabilities of the Association, together with any allocations to reserves, incurred or to be incurred for the general benefit of all Owners for which a lien under the Act and this Declaration may arise.

"County" shall mean Monongalia County, West Virginia.

"Declarant" shall mean Mountainscape Developments, LLC, a West Virginia limited liability company.

"Declaration" shall mean this Amended and Restated Declaration of Protective Covenants, Restrictions and Reservations for Harper Estates, a Residential Planned Community.

"Design Guidelines" shall mean the Design Guidelines prepared for and governing site and architectural designs and construction within Harper Estates, together with review procedures and fees applicable to all or any portion of the Lots.

"Development" or "Harper Estates" shall mean and refer to the Lots and all roads, and Common Elements as depicted or shown on the Plat, together with appurtenant easements and rights of ways, whether or not depicted or shown on the Plat.

"Development Rights" shall mean any right or combination of rights reserved by Declaration herein to (i) add real estate to Harper Estates; (ii) create Lots, or Common Elements; (iii) subdivide or combine Lots or convert a Lot into part of the Common Element; or (iv) withdraw real estate from Harper Estates.

"Limited Common Element" means a portion of the common elements allocated by this Declaration or subsequently by the Declarant or the Association, as the case may be, for the exclusive use of one or more but fewer than all of the Lots.

"Lot" shall mean and refer to any of the separately numbered Lots of land as shown upon the Plat together with the improvements thereon, but excepting the Common Elements. A "Lot" is a Unit as the Act defines that term.

"Member" shall mean and refer to any and every Owner or person or entity who holds membership in the Association in accordance with the provisions hereof.

"Owner" shall mean and refer to the record owner, whether one or more person or entities, of title to any Lot, including contractors and sellers, but excluding those having such interest merely as security for the performance of an obligation.

"Mountainscape Developments" shall mean Mountainscape Developments, LLC, a West Virginia limited liability company.

"Period of Declarant Control" shall mean a period of declarant control of the Association, during which the Declarant, or persons designated by him, may appoint and remove the officers

and members of the Executive Board. The Period of Declarant Control terminates no later than the earlier of: (i) Sixty days after conveyance of seventy-five percent of the Lots that may be created to Owners other than the Declarant; (ii) two years after the Declarant has ceased to offer Lots for sale in the ordinary course of business; or (iii) two years after any right to add new Lots was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of the Period of Declarant Control, but in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the association or executive board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

"Plat" shall mean the plat of subdivision for Harper Estates on a map entitled "Harper Estates – Residential Subdivision, Phase 2" dated May 21, 2025, recorded simultaneously with this Declaration, and prepared by Ronald A. Talkington, License No. 876, Cheat Road Engineering, Inc., as it might be revised or amended in part or entirely from time to time (the "Plat" is the "declaration plan" as that term is defined under the Act). The Plat depicts the location and size of the Lots; the Lot designations; the location and designation of certain spaces that may be divided into Lots by the Declarant pursuant to the reservation of rights under this Declaration, but have not been so divided as of the date that this Declaration is recorded.

"Property" shall mean all of the real property described on Exhibit A attached hereto and depicted and shown on the Plat. The defined term "Property" shall include all Lots and Common Elements.

"Restrictions" shall mean and refer to the covenants, protections, agreements, reservations, restrictions, easements, rights of way, charges and liens as set forth herein.

"Special Declarant Rights" shall mean the rights of the Declarant as set forth in Article III.

"Road" shall mean any road, public or private, in Harper Estates, but shall not include driveways serving one or more but not all of the Lots.

II. DEVELOPMENT

2.1 Every building must be constructed in strict conformity with the Design Guidelines and as plans thereof have been approved by the Declarant or the Architectural Review Committee, as the case may be, and may not be subsequently modified or altered without the written approval thereof.

2.1.1 No building shall be erected, altered, placed, or positioned to remain on a Lot other than one (1) single family dwelling, having a minimum of two thousand two hundred (2,200) square feet of living space, excluding any finished or unfinished basement. Additionally, on certain Lots, because of their size and location, Owner may also construct a separate garage for a maximum of two (2) cars and domestic or guest living quarters, a below-ground swimming pool and a tennis court; *provided, however*, such improvements must be approved by the Architectural

Review Committee. No part of any building shall exceed a height of fifty (50) feet measured from the elevation of top of the foundation, without the prior written consent of the Declarant or the Architectural Review Committee, as the case may be.

2.1.2 A building on a Lot may share one or more common walls with a building on an adjoining Lot so long as the Owners shall enter into one or more party wall agreements for the maintenance, repair, and replacement thereof, which shall include an allocation of expenses therefor and for other commonly owned or use portions thereof.

2.1.3 Exterior building materials submitted for approval shall be brick, stone, cultured stone, "Hardie" type products (i.e.: composite siding, board & batten etc.), dryvit or stucco. A minimum of two (2) types of material will be required for each house exterior. Notwithstanding anything stated in this Declaration, the exterior of the single-family dwelling built upon a Lot must be comprised of at least ten percent (10%) brick or stone, as approved by the Architectural Review Committee.

2.2 Other Buildings; Structures. Notwithstanding Section 2.1, an Owner may build an outbuilding, shed, or other similar structure upon application to, and the approval of, the Architectural Review Committee.

2.3 Landscaping. Each Owner shall landscape with natural stone, or other hardscape, driveways, walks, and other suitable improvements, and by the planting and placement of trees, shrubbery and flowers within six months of a dwelling's completion. An Owner may use any species or variety of flora from a list approved or issued by the Architectural Review Committee.

2.4 Private Roads. The Roads in Harper Estates will be constructed by the Declarant as private roads. After final construction of the private roads, it shall be the responsibility of all the Owners to pay for the repair, maintenance, upkeep and any improvements to all the roads. Upon completion of the roads, the Association shall be responsible for the maintenance, repair, and replacement of the roads.

2.5 Parking. Owner shall provide parking space for personal vehicles and for guests and visitors on their Lot. There shall be no on street parking; *provided, however*, guests and visitors of Owners, but not Owners, may park on the street for a period of time not to exceed twenty-four hours in any ten (10) consecutive day period. No Owner may store or park on their Lot, in public view of any other Owner, camping vehicles, boats, trailers or other equipment. Each Owner shall have full responsibility for the construction, maintenance, upkeep and repair of the driveway on their Lot.

2.6 Refuse. Each Owner shall provide suitable facilities and containers for garbage and refuse collection out of view of other Owners. All garbage facilities must be permanent and connected to and be a part of the dwelling. Stand-alone garbage bins, storage facilities, or sheds of any kind are forbidden. All refuse facilities and containers shall at all times be kept clean and

sanitary and all garbage and refuse must be kept out of view except on the morning it is placed for pick-up and removal. No Owner may otherwise place, deposit, or set garbage or refuse along the road.

2.7 Mailboxes. Mailboxes that are not attached to dwellings or other buildings shall conform to plans provided by the Declarant or the Architectural Review Committee or shall be approved by the Declarant or the Architectural Review Committee, as the case may be, before installation.

2.8 Further Subdivision. Subject to the Special Declarant Rights, no Lot shall be subdivided for any purpose without the prior written approval of the Architectural Review Committee and sixty (60%) of the votes in the Association; *provided, however*, the Declarant may, in its sole discretion and without approvals, subdivide Lots for so long as the Declarant owns any Lots.

2.9 Utilities. All residential utility service lines including without limitation, electricity, gas, telephone, water, and any and all types of radio and television lines or cables, shall be underground.

2.10 Building Setbacks. No building or other structure, other than a driveway or common driveway, shall be constructed within the front setback area as delineated on the Plat for each Lot and the closest pavement edge of any street. No building or other structure, other than any dwelling on a Lot sharing one or more party walls with one or more walls of a dwelling on an adjoining Lot, shall be constructed within ten (10) feet of any rear or side Lot line. The Declarant in its sole and absolute discretion retains the right to enforce greater or lesser setbacks requirements as it may see fit from time to time. All such determinations by the Declarant are final and not subject to challenge or review.

2.11 Satellite Dishes. An Owner may only install a satellite dish in an inconspicuous place and hidden from view by any other Owner or from any other Lot, by mature plantings and shrubbery or upon a roof in a way that it cannot be viewed from the elevation of any road in the immediate vicinity of the Lot. No antenna, dish or reception device is otherwise permitted.

2.12 Sewage. Each Owner shall be responsible for disposing of all sewage in accordance with the sanitation laws and regulations applicable to Harper Estates. The Declarant has installed sanitary sewer lines for Harper Estates, into which each Owner of a Lot must connect. Each Owner shall be responsible for the cost and plan of connection to the sanitary sewer lines.

2.13 Lot Upkeep. Each Owner shall have a reasonable time after purchase to clear his Lot and all areas adjacent to roads of underbrush, dead wood and debris, and shall thereafter keep and maintain his Lot clear of underbrush, dead wood and debris.

2.14 Driveways. Each Owner shall be responsible for the construction and maintenance of a private driveway and parking area after obtaining the prior written approval from the

Declarant or the Architectural Design Committee for the location, design and construction of the private driveway and parking area, which must be constructed strictly as approved by the Declarant or the Architectural Design Committee and provide for suitable drainage and control of water.

2.15 Advertisements. No advertising signs of any kind shall be erected upon, displayed, or otherwise exposed to view on any Lot or any improvement thereon, without the prior written consent of the Declarant or, if such power delegated by the Declarant, the Association; provided, however, that this prohibition shall not apply to signs of the type and size generally used by reputable real estate firms in the area to advertise the Lot for sale; provided further, that any such sign may only be placed on the actual Lot which is for sale. No one other than the Declarant or the Association, or its affiliates, may place any signage at the entrance to Harper Estates. This restriction with conditions shall not be construed to bar or prohibit political or issue signs.

2.16 Nuisances. The pursuit of inherently dangerous or undesirable activities or hobbies and the storage of unsightly vehicles, appliances, or other devices or materials are prohibited. Each Owner shall refrain from any other use of their Lot which could reasonably cause embarrassment, discomfort, annoyance, or be a nuisance to other Owners. No noxious, offensive or illegal activity shall be conducted on any Lot or within Harper Estates. There may be no storage of rubbish of any character whatsoever or storage of any property or things that will cause property to appear in an unclean, untidy condition, or that will be visibly obnoxious.

2.17 Animals. Owners shall be responsible for keeping their pets restricted to their own Lots or on a leash outside of their Lots and shall prevent their pets from being a nuisance or danger.

2.18 Use. No lot may be used for any commercial purpose. No Owner may develop or produce any minerals from any Lot. Each Lot shall be used for single family residential purposes only; provided, however, that an Owner may use up to two rooms within the dwelling for a personal business office, but never a business office for lease to a person who is not an Owner, so long as:

- (1) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot;
- (2) the business activity satisfies any land use ordinances;
- (3) the use of the Lot for trade or business shall in no way destroy or be incompatible with the residential character of the Lot or Harper Estates;
- (4) the trade or business shall be conducted only inside the Lot and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Lot;
- (5) the trade or business shall be conducted only by the Owner;

(6) the Lot used for trade or business shall not be used as a storage facility for a business conducted elsewhere;

(7) the trade or business shall not generate any vehicular or pedestrian traffic or parking requirements greater than would otherwise be expected were the trade or business not occurring;

(8) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and

(9) a trade or business shall not utilize large vehicles not customary to a residential use.

The terms "business" and "trade" as used in this Section 2.18 shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether, (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Lot by the Owner thereof shall not be considered a trade or business within the meaning of this sub-section.

2.19 Leasing; Renting. Notwithstanding anything stated in this Declaration, Owners shall not lease or rent their Lot, or any residence or improvement thereon except as provided for in this Section 2.19. Owners may lease their Lot to an individual or a related family unit for use as a single-family residence for a term of not less than one year. Lessees shall be prohibited from subleasing their Lot. By way of clarification, it is the intent of Declarant, Owners, and this Declaration to prohibit short-term, long-term, and any other type of leasing or rental arrangement between Owners and third parties except as provided above. By way of further clarification and not in any way limiting other restrictions, leasing or renting a Lot, or any dwelling thereon, through Airbnb, VRBO, Vacation Rentals, or any similar platform for a period of time less than one year and for any use other than as a family residence is strictly prohibited.

2.20 Consolidation. If any Owner hereafter acquires or owns two (2) or more contiguous Lots in Harper Estates, such Owner shall have the right to consolidate the Lot for third party assessments and tax purposes only and to develop the Lots as one (1) Lot, but in no event shall consolidation avoid multiple assessments (including assessments attributable to each pre-consolidated Lot) by the Association, or the liens thereof. Further, the Declarant shall have the right to convey two (2) or more contiguous Lots as one (1) Lot and the right to consolidate them for third party assessments and tax purposes and reserves the right to make further covenants with respect thereto. The Declarant shall have the right to re-subdivide two or more Lots into fewer or more Lots so long as each of the resulting Lots conform to the restrictions herein.

2.21 Limited Common Elements. The Declarant may create Limited Common Elements from any of the Property or other real property shown on the Plat, including Common Elements,

and allocate them to specific Lots. The costs of construction, maintenance, repair, and replacement of Limited Common Elements shall be borne exclusively by the Lots to which such Limited Common Elements are allocated; *provided, however*, if the Declarant creates Limited Common Elements prior to the use or allocation of such Limited Common Elements to one or more Lots, then the Declarant shall bear the costs of the construction of such Limited Common Element. Notwithstanding anything stated in this Declaration, the Declarant or the Association, as the case may be, retains all power and authority to manage, maintain, repair, and replace the Limited Common Elements, with all associated costs borne exclusively by the Lots to which the Limited Common Elements are allocated; *provided, however*, the Declarant or the Association, as the case may be, may delegate such power and authority to the Owners to which the Limited Common Element is allocated.

2.22 Stormwater. As part of the construction of the single family dwelling on a Lot, the Owner thereof, at their sole and exclusive cost, shall construct a stormwater retention system to serve the Lot at the location, and to the specifications and requirements, established by the Architectural Review Committee. If within one hundred thirty (30) days of the receipt of a certificate of occupancy for the single family dwelling on a Lot an Owner fails to perform under this Section 2.22, the Declarant or the Association, as the case may be, may construct the stormwater retention system and assess the Owner for the costs associated with such construction. The Association may collect and enforce such assessments as permitted under the Act or this Declaration. The stormwater retention system shall be part of the Lot and all costs associated with the stormwater retention system shall be borne by the Owner.

2.23 Driveway; Outdoor Light Fixtures. Each Lot upon which a driveway is constructed must have driveway pillars with lights. The driveway pillars and lights shall be subject to review and approval of the Architectural Review Committee. If an Owner fails to perform under this Section 2.23, the Declarant or the Association, as the case may be, may install the driveway pillars and lights and assess the Owner for the costs associated with such construction. The Association may collect and enforce such assessments as permitted under the Act or this Declaration. The driveway pillars and lights shall be part of the Lot and all costs associated with the driveway pillars and lights. The Declarant and the Architectural Review Committee shall establish a uniform standard and specifications for driveway pillars and lights.

2.24 Obligation to Build; Commencement of Work. Notwithstanding anything stated in this Declaration, Owners shall build a single-family dwelling on each Lot pursuant to the terms and conditions of this Declaration. Owners shall commence work on the single-family dwelling within eighteen (18) months of closing; *provided, however*, the Declarant or the Association, as the case may be, may, in its sole discretion, grant an extension upon application by the Owner. If an Owner fails to perform under this Section 2.24, the Declarant or the Association, as the case may be, may assess a fee or penalty against the Owner and the Lot. The Association may collect and enforce such assessments as permitted under the Act or this Declaration.

2.25 Maximum Number of Lots; Creation. The maximum number of Lots that may be

created by the Declaration is 50. The Plat depicts the location and size of the Lots; the Lot designations; the location and designation of certain spaces that may be divided into Lots by the Declarant pursuant to the reservation of rights under this Declaration, but have not been so divided as of the date that this Declaration is recorded. The Declarant reserves the right to create Lots from the non-Lot spaces shown on the Plat. The Declarant shall prepare and record a restatement or amendment of the Plat showing the new Lots as they are created by the Declarant. The Declarant may exercise its Development Rights within twenty-five years of the date of this Declaration.

2.26 Lot Creation. Only those Lots shown on the Plat, as may be amended, are subject to this Declaration. The parts of the Property not yet created or designated as Lots are not subject to this Declaration. The Declarant reserves the right to add those areas identified on the Plat as "NEED NOT BE BUILT" to Harper Estates, to subject such areas to this Declaration, and to create Lots from such areas.

III. EASEMENTS; COMMON ELEMENTS; ROADS

The Declarant hereby DECLARES and RESERVES all of the following rights, easements and rights of way in, over, under, through, and across all of the Property:

3.1 Easements and rights of way for roads as finally located that are or are intended to be a part of the Common Elements.

3.2 Easements and rights of way for all utilities and services including, without limitation, for electricity, natural gas, telecommunications, fiber, water, sanitary sewage, wires, pipes, ditches, drains, swales, poles and facilities as finally located.

3.3 Easements as might be desirable in the future for trails for walking, hiking and other recreation, and for landscaping and beautification of the roadways. The Declarant shall have the right to change the area of the easement reserved hereby to accommodate buildings and other development.

3.4 Easements for drainage through, under or on any part of the Property, including the Common Elements from any part of the Property, including any Lot or any other part of the Common Elements for the purposes of the following:

- a. Controlling soil erosion, including grading and planting vegetation in any area of any Lot which are or may be subject to soil erosion;
- b. Draining natural or man-made water flow and water areas from any portion of Harper Estates, including any Lot or part of the Common Elements;
- c. Changing, modifying, or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or portion of the Common Elements;

d. Dredging, enlarging, reducing or maintaining any water areas or waterways within Harper Estates and

e. Installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of Harper Estates.

3.5 Easements ten (10) feet wide along all Lot lines measured a distance of ten (10) feet on each side of all such Lot lines. Such easement may be used for the construction, maintenance, repair and replacement of drainage, storm water retention ponds and utility lines, including individual utilities and services, including gas, water, sewer, electricity, television, radio, telephone and such other as may be desirable in the future.

3.6 Easements ten (10) feet wide over, under and through each Lot for the installation, maintenance and removal of sanitary sewer lines and all necessary equipment in connection therewith, wherever they lay in Harper Estates. The placement of this easement is at the Declarant's sole discretion. This reservation shall not constitute a representation or obligation of the Declarant to provide or maintain any sanitary sewer line, facility or connection. No permanent structures of any kind may be erected or built on any easement.

3.7 Easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Elements.

3.8 Easements for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes.

3.9 Easements upon, across and over the Common Elements and all private streets, private roadways, private driveways and private parking areas within Harper Estates for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Executive Board shall have the right to relocate or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of the County or any other governmental body or agency having jurisdiction thereupon including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

3.10 For the benefit of the Association, easements and rights-of-way over, under, through, and across each Lot for the purposes of maintaining, repairing, and replacing a walking path to be managed in the sole discretion of the Association.

3.11 The Association and every Owner shall convey, without compensation, any necessary easement for the construction or installation of roads or utilities in Harper Estates whether or not within the boundaries of any Lot.

3.12 Temporary easements on and under each Lot adjacent to other easements reserved

herein as from time to time necessary for the construction, maintenance, repair and replacement of any facilities to be placed in such easement. Such temporary easement shall last for such time as necessary for such work.

3.13 Rights to use the roads and utilities constructed and installed, together with the right to use all easements in Harper Estates, for residential or other properties adjoining, adjacent to or in the vicinity of Harper Estates, now owned or hereafter acquired by the Declarant, its owners or affiliates, whether or not such residential or other properties are subject to this Declaration contained herein as a part of this reservation but not as a limitation to or on the reservation.

3.14 Rights to use and enjoyment of any easement or right reserved, created or declared hereunder, except for the Special Declarant Rights and the Development Rights, shall extend and inure to the Declarant and its successor (if any) and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon the Property, including each of the Lots. The Declarant by instrument may assign some, any or all of the Declarant's rights hereunder to the Association for the management of Harper Estates.

3.15 Right to enter and to inspect, or cause its contractors, owners, affiliates, successors and assigns to enter and to inspect, any part of the Property within Harper Estates during reasonable hours to ascertain that any construction, land disturbance, timber cutting or other development complies with this Declaration.

3.16 The Declarant shall restore areas affected by the construction or maintenance of any easement during the initial construction of Harper Estates and thereafter the Association shall be responsible for the restoration of any easement areas affected by any construction or maintenance of easements undertaken by the Association.

3.17 Special Declarant's Rights.

3.17.1 The Declarant RESERVES the following Special Declarant Rights, which may be exercised, where applicable, anywhere within Harper Estates or the Property:

- a. Right to complete any improvements indicated on the Plat or described in any statement issued by the Declarant;
- b. Right to exercise any Development Right reserved in this Declaration;
- c. Right to maintain sales offices, management offices, models, and advertising signs throughout Harper Estates;
- d. Right to exercise easements through the Common Elements for the purpose of making, constructing and installing improvements within Harper Estates;

e. Right to make Harper Estates subject to the Association as set forth in Declaration;

f. Right to construct and develop Harper Estates in one or more phases within the land shown on the Plat or other real property otherwise made subject to this Declaration;

g. Right to appoint and remove any director or officer of the Association as provided in this Declaration during the Period of Declarant Control;

h. Right to amend this Declaration for the purpose of clarifying any conflict, ambiguity or inconsistency created herein, and to cause this Declaration to comply with the Act;

i. Right to include in any deed hereafter made any additional covenants, conditions or restrictions applicable to particular Lots;

j. Right to amend this Declaration for a period of twenty-five (25) years without the consent or approval of Owners to add additional real estate to Harper Estates so long as the amount of the real estate added to Harper Estates does not exceed ten percent (10%) of the area of the real estate made subject to this Declaration together with the following rights related thereto:

(i) Right to connect any adjoining or nearby property to the utilities of Harper Estates and to enter upon any easement herein reserved to connect the same;

(ii) Right to extend such utility easements to the property line of Harper Estates or Lot affected;

(iii) Right to use the Common Elements as depicted on the Plat or otherwise, and upon any subsequent plat of additional sections or phases of Harper Estates or of additions thereto;

(iv) Right to grant to others, including but not limited to owners of real property interests in adjoining real property, the use of the Common Elements, including appurtenant easements and rights of ways; and

(v) Right to sell, set over, assign or otherwise transfer these rights and obligations to public or private associations, corporations or firms and to retain all compensation if any paid therefore provided that the grantees of the easements shall be obligated to pay their proportionate share of the repair, maintenance and replacement of same.

k. Right to add any real property as shown on the Plat to Harper Estates without the consent or approval of Owners.

l. Right to create Common Elements or Limited Common Elements from any real property as shown on the Plat.

m. Right to create a maximum of 50 Lots from any real property as shown on the Plat.

n. Right to withdraw from Harper Estates any real property identified as "NEED NOT BE BUILT" on the Plat.

3.17.2 So long as the Declarant is marketing Lots or other portions of the Property, right to restrict or regulate the use of the parking spaces on the Common Elements, which right shall include reserving such spaces for use by prospective purchasers, the Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

3.17.3 Right and easement on and over the Common Elements to construct all improvements that the Declarant may deem necessary and to use the Common Elements and any Lots and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting Harper Estates and property adjacent to Harper Estates.

3.17.4 The Declarant shall exercise its Special Declarant Rights within twenty-five years of the date of this Declaration.

3.18 The Declarant shall have the right and an easement upon, over and through the Common Elements and the Property as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by Declarant in this Declaration.

3.19 Transfer of Special Declarant Rights.

3.19.1 The Declarant may assign any or all of the Special Declarant Rights, Development Rights, or other special rights and obligations of Declarant set forth in this Declaration or the By-Laws to any affiliate of Declarant or other person, or the Declarant may allow any affiliate of the Declarant or other person to exercise such rights on behalf of the Declarant. The method of exercising such rights shall be subject to the agreement of the parties thereto. Evidence of the transfer of Special Declarant Rights shall be recorded in the Clerk's office and executed by transferor and transferee.

3.19.2 Any or all of the Special Declarant Rights, Development Rights, or other special rights and obligations of Declarant set forth in this Declaration or the By-Laws may

be transferred in whole or in part to the Association or to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all future liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Clerk's office.

3.19.3 Provisions in this Declaration creating Special Declarant Rights shall not be amended without the written consent of the Declarant.

3.20 The Lots and the Common Elements are hereby made subject to the following rights and easements in favor of the Association and the Executive Board, the Architectural Review Committee, officers, agents, employees and independent contractors, thereof:

3.20.1 Right and easement to inspect during reasonable hours of the Lots and Common Elements in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;

3.20.1 Right and easement to inspect, maintain, repair and replace the portions of the Common Elements accessible only from such Lots;

3.20.2 Right and easement to correct emergency conditions on one or more Lots or on portions of the Common Elements accessible only from such Lots;

3.20.3 Right and easement to enable the Association, the Executive Board, the Architectural Review Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under this Declaration, the By-Laws or the regulations;

3.20.4 Right and easement to inspect, during reasonable hours, the Lots to verify that the Owners and their guests, tenants and invitees, are complying with the provisions of this Declaration, the By-Laws or the regulations.

3.21 Other Covenants Prohibited. No person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easement, or similar instrument affecting any portion of the Property without the Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Clerk's office. No such instrument recorded by any person, other than the Declarant, may conflict with this Declaration, the By-Laws or the Articles of the Association.

3.22 Dedication of or Grant of Easements on Common Elements. The Declarant in its sole discretion may dedicate or grant easements across portions of the Common Elements to any

local, state, or federal governmental or quasi-governmental entity, or to any public or private utility company.

3.23 Matters of Record. The Property is subject to any and all easements, rights-of way, reservations, exceptions, covenants, conditions and restrictions affecting title to the Property that are evidenced by instruments recorded in the office of the Clerk of the County Commission of Monongalia County, West Virginia, including but not limited to the following:

3.23.1 Right of way dated September 23, 1982, recorded in Deed Book 873, at page 243, from Roger Decker and Delores Decker to Gary A. Walls and Loretta K. Walls.

3.23.2 Right of way dated March 5, 1992, recorded in Deed Book 1102, at page 633, from Michael A. Lemery to Mountain Gas Company.

3.23.3 Road maintenance agreement dated November 7, 1991, and recorded in Deed Book 1044, at page 497, between Mark Fuller and Judy Fuller, husband and wife, and Michael Lemery and Karen Lemery, husband and wife.

3.23.4 Plat recorded in Deed Book 404 at page 94-A.

3.23.5 Right of way for Easton Mill Road shown on Plat recorded in Deed Book 404, at page 94-A.

3.23.6 Riparian rights to waters of West Run by adjoiners.

3.23.7 Right of way dated November 15, 1991, and recorded in Deed Book 1044, at page 494, from Michael Lemery and Karen Lemery to Mark Fuller and Judy Fuller.

3.23.8 Right of way dated March 15, 1956, and recorded in Deed Book 535, at page 181, from G. W. Reynolds and Mildren Reynolds to Hope Natural Gas Co.

3.23.9 Right of way dated October 18, 1948, and recorded in Deed Book 427, at page 213, from Cecil Linger and Valeria Linger to Preston Co. Light and Power Co.

IV. ARCHITECTURAL REVIEW

4.1 Architectural Review Committee. The Association shall have an Architectural Review Committee to perform the functions assigned to it as set forth in this Declaration.

4.2 Composition. So long as the Declarant owns any Lot or other property within Harper Estates, the Architectural Review Committee shall comprise of three (3) members, each of whom shall be appointed by and serve at the sole discretion of the Declarant. At such time as the Declarant no longer owns any Lot or other property within Harper Estates, the Architectural Review Committee shall comprise such number of members as the Board may deem appropriate.

from time to time (but no fewer than three (3) nor more than seven (7) regular members), each of whom shall be appointed by and serve at the pleasure of the Executive Board. The Declarant may at any time voluntarily surrender in writing in part or all of its right, as the Declarant, to appoint and remove the members of the Architectural Review Committee under this Section 4.2 and in that event the Declarant may require, for so long as the Declarant owns any Lot or other property within Harper Estates, that specified actions of the Architectural Review Committee, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

4.3 The Architecture Review Committee shall promulgate the Design Standards, including, but not limited to, the color palette and exterior building materials to be used in rendering its decision.

4.4 In the event of any conflict between this Declaration and any of the Design Standards, this Declaration shall control.

4.5 No member of the Architectural Review Committee shall be personally liable to any Owner, the Association or any other person for any mistake of judgment or for any other acts or omissions of any nature whatsoever (including, without limitation, any mistake in judgment, negligence or nonfeasance) except for willful or intentional misconduct or fraud.

4.6 The Association shall indemnify and hold harmless the members of the Architectural Review Committee, and their respective heirs and legal representatives, against all contractual and other liabilities to others arising out of (i) contracts made by the Architectural Review Committee within the scope of and in the course of performing its duties hereunder; (ii) the acts or omissions of such members of the Architectural Review Committee; or (iii) their status as members of the Architectural Review Committee; provided, however, that such indemnification shall not be applicable where any such contract, act or omission constitutes willful or intentional misconduct or fraud. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, reasonable attorneys' fees and disbursements, amounts of judgments paid and settlement amounts) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal administrative or other, in which any such member of the Architectural Review Committee may be involved by virtue of being or having been a member of the Architectural Review Committee; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which a member of the Architectural Review Committee shall have finally been adjudged in such action, suit or proceeding to be liable for willful or intentional misconduct or fraud in the performance of their duties as such member of the Architectural Review Committee; or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Executive Board, there is no reasonable ground for such member of the Architectural Review Committee being adjudged liable for willful or intentional misconduct or fraud in the performance of their duties as a member of the Architectural Review Committee.

4.7 Subject to the provisions of Section 4.6 of this Declaration, neither the Association, the Executive Board, nor the Architectural Review Committee, nor any of the members of any of

them, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications. Further, the design and construction of any improvement shall be the sole responsibility of the Owner and any recommendation, requirement or condition with respect to any plans or specifications or the means or method of construction made by the Architectural Review Committee or any member thereof shall not alter the Owner's responsibility for the safe and proper design and construction of said Improvement, nor shall it give rise to any claim by anyone against the Association, the Executive Board or the Architectural Review Committee or any member of any of them for any defect in design or construction of any improvement.

4.8 Design Guidelines. The design and construction of any dwelling, building or other structure shall comply with the Design Guidelines issued by the Declarant or the Architectural Review Committee. The plan shall include a plot plan showing the proposed location of the dwelling, accessory buildings or other structures, all exterior elevations depicting the type and location of all exterior building materials, and color tones; and a landscaping plan.

4.9 Prior Approval. No construction of any building or other structure shall begin or be changed on any Lot before the proposed plans therefore are submitted to and approved for Architectural Review in writing by the Declarant or with the Declarant's consent, the Architectural Review Committee. The plans shall include building specifications, dimensions, elevations, exterior color and finish materials, plot plans (showing among other things, the proposed location of the building or structure, driveway, walks and parking areas and landscaping), and shall set out a suitable plan for drainage on and from the Lot. The Owner must also provide, and the Declarant must approve in writing, excavation and construction schedules.

4.10 No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within Harper Estates, or any improvements located thereon, shall be made or done without the prior written approval of the Architectural Review Committee, nor (except as a prerogative of the Declarant as stipulated under this Declaration) shall any Lot be split, divided or further subdivided in any manner without the prior written approval of the Architectural Review Committee.

4.11 Any Owner or other person desiring approval of the Architectural Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any improvement which would alter the exterior appearance of his Lot or other portion of Harper Estates, or any improvements located thereon, shall submit to the Architectural Review Committee a written request for approval specifying, in detail, the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other person desires to perform. Any Owner or other person requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications which the Architectural Review Committee may reasonably request. In the event that the Architectural Review Committee fails to approve or

disapprove an application for approval within sixty (60) days after the application, together with all supporting information, plans and specifications required by the Architectural Review Committee, have been submitted to it, approval will not be required and this Section will be deemed to have been complied with by the Owner or other person who submitted such application for approval.

4.12 The approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change, replacement or other work under this Section shall not be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

4.13 Upon receipt of approval from the Architectural Review Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Review Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Review Committee.

4.14 Any change, deletion or addition to the plans and specifications approved by the Architectural Review Committee must be approved in writing by the Architectural Review Committee.

4.15 The provisions of this Article do not apply to, and approval of the Architectural Review Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

4.16 The approval required of the Architectural Review Committee under this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Architectural Review Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Review Committee of evidence satisfactory to the Architectural Review Committee that the Owner or other person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Architectural Review Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

4.17 Owners may clear areas for building sites, driveways, walks and other improvements, upon submission of and approval by the Declarant of building plans as required in Section 4.9. Diseased or naturally fallen or damaged trees, including evergreen species, are excluded from this provision.

V. CONSTRUCTION

5.1 Construction. Before beginning any construction, an Owner must obtain the Declarant's or the Architectural Review Committee's written approval of the builder or general contractor Owner would like to hire to construct the dwelling and improvements. The Declarant or the Architectural Review Committee may, in its sole discretion, refuse to approve any proposed builder or general contractor. Any proposed builder or general contractor must provide and pay to the Declarant or the Association and to have in place before any work at the Lot has begun, a road bond or cash security of not less than Five Thousand Dollars (\$5,000.00) in U.S. Dollars to provide for the prompt repair of any damage caused to the roads as a result of the construction. Owner's and builder's liability for all damages to the roads caused by their work shall not be limited to the amount of the road bond or cash security. The Owner and builder shall be responsible for the costs to repair and remedy the actual damage to the roads caused by either of their acts or failures to act. After construction of a structure has begun, it shall proceed diligently, continuously and without interruption until fully completed. Any structure on which construction has begun must be occupied within one (1) year after the start of construction, unless such time is extended by the Declarant or the Architectural Review Committee in its sole discretion.

5.2 Right of Inspection. At all reasonable times, before, during and immediately upon completion of construction, the Declarant, the Association or its authorized designees, shall have the right to inspect the construction and site for any purpose.

5.3 Clearing. Upon approval of clearing plans by the Declarant, each Owner may cut such timber as is specifically approved, provided, the Owner in doing so, shall promptly remove or mulch all such timber, debris and refuse.

5.4 Runoff Protection. Before clearing any land, the Owner shall place siltation barriers, straw, mulch or other suitable material around the cleared areas to prevent runoff onto adjacent lands, shall prepare soil and erosion control plans, and shall take all other actions and precautions to prevent runoff of water and debris as may be required by any governmental authority having jurisdiction to regulate such runoff.

5.5 Construction Site and Facilities. All construction sites, facilities and equipment must be kept clean, neat and orderly and all facilities and equipment must be removed within the time established for completion of construction of any building. Roads and right of ways shall be kept clean and clear. Any dirt, mud or debris shall be removed immediately. If roads or right of ways are found to be in disrepair, then the Declarant will clean the road or right of way and bill the Owner accordingly for the service.

VI. THE ASSOCIATION

6.1 Formation of Association. The Association shall be a nonprofit West Virginia corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, the By-Laws, this Declaration, and the Act. In the event of any

conflict or inconsistency between this Declaration and any of the Articles of Incorporation of the Association, By-Laws or rules and regulations of the Association, this Declaration shall control, in the case of an inconsistency or conflict between this Declaration and the Act, the Act shall control.

6.2 Governing Board and Officers. The affairs of the Association shall be conducted by the Executive Board and such officers as the Executive Board may elect or appoint in accordance with the Articles of Incorporation and the By-Laws. Unless the Act or this Declaration specifically requires the vote or written consent of Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Executive Board. The Executive Board may appoint various committees at its discretion. The Executive Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Elements. The Executive Board shall determine the compensation to be paid to a manager, if any. Except as otherwise provided for in this Declaration or the act, the Executive Board shall act in all instances on behalf of the Association. Unless the Act or this Declaration specifically requires the vote or written consent of Members, the Executive Board shall act in all instances on behalf of the Association and may exercise any and all authority and power granted to the Association.

6.3 Powers and Duties. The Association shall have all powers and duties necessary for the maintenance of the Common Elements and the administration of the affairs of the Association. Such powers and duties shall include, but shall not be limited to the following:

- a. Adopt and amend bylaws;
- b. Adopt and amend rules and regulations including, but not limited to, any rules and regulations related to any recreational facilities situated upon the Common Elements; traffic and parking restrictions including speed limits on private roads within Harper Estates; minimum standards for any maintenance of Common Elements and Lots within Harper Estates; and any other subject within the jurisdiction of the Association;
- c. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Owners
- d. Hire and discharge managing agents and other employees, agents, and independent contractors;
- e. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the common interest community;
- f. Make contracts and incur liabilities;
- g. Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- h. Cause additional improvements to be made as a part of the Common Elements;
- i. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property;

j. Grant easements, leases, licenses, and concessions through or over the Common Elements;

k. Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements;

l. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules, and regulations of the association;

m. Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates, or statements of unpaid assessments;

n. Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance;

o. Assign its right to future income, including the right to receive common expense assessments;

p. Exercise any other powers conferred by the declaration or bylaws;

q. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association;

r. Institute litigation or administrative proceedings in its own name against a Owners for the collection of dues or assessments that are overdue or in arrears;

s. The operation, maintenance, repair, care, upkeep and replacement of the Common Elements;

t. The determination of the common expenses required for the affairs of the Association, including, without limitation, the operation and maintenance of the Property;

u. The assessment and collection of funds from Owners for the common expenses and the payment of such common expenses;

v. The enforcement of all covenants, restrictions, conditions and obligations of this Declaration;

w. The suspension of voting rights of a Member for any period of time during which any assessment against their Lot remains unpaid or during which such Member is in violation of any provision or this Declaration;

x. The appointment or withdrawal of members of the Architectural Review Committee, from time to time; provided, that some or all of the members of the Executive Board may serve as the Architectural Review Committee;

y. Exercise any other powers necessary and proper for the governance and operation of the association.

6.4 No Personal Liability. No member of the Executive Board, the Architectural Review Committee or any other committee of the Association; no officer of the Association and no manager or other employee or agent of the Association shall be personally liable to any Member, or to any other person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the

Executive Board or any member thereof, the Architectural Review Committee or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has engaged in intentional misconduct.

6.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by this Declaration, the By-Laws, the rules and regulations, the Act, and every other right or privilege reasonably implied from the existence of any right or privilege given to the Association thereby or reasonably necessary to effectuate any such right or privilege.

6.6 Membership in the Association. Every Owner shall be a Member, and the Declarant shall be a Member so long as it owns any part of Harper Estates (unless and until Declarant expressly relinquishes in writing its status as a member). There shall be one (1) membership for each Lot depicted on the Plat, which membership shall be held jointly by all Owners of that Lot.

6.7 Votes in the Association.

6.7.1 There shall be one (1) vote for each Lot and may be cast only by the Owner thereof or the Owner's designated proxy.

6.7.2 During the Period of Declarant Control of the Association, the Declarant or its affiliate or designee may appoint and remove the officers and members of the Executive Board, subject to the limitations set forth herein.

6.7.3 Not later than sixty (60) days after conveyance of twenty five percent (25%) of the Lots that may be created to Owners other than the Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Owners other than the Declarant, not less than thirty-three and one-third percent (33.3%) of the members of the Executive Board must be elected by Owners other than the Declarant. Not later than the expiration or termination of the Period of Declarant Control, the Owners shall elect a Executive Board of at least three members, all of which must be Owners.

6.7.4 The Executive Board shall elect the officers.

6.8 Voting Procedures. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded; the Executive Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof. The vote for each Lot must be cast as a unit and fractional votes shall not be allowed. In the instance that a Lot is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Association member casts a vote representing a certain Lot,

it will thereafter be conclusively presumed for all purposes that they were acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote or votes for a particular Lot, the vote or votes for that Lot shall be deemed void and shall not be counted.

6.9 Transfer of Association Membership. The rights and obligations of any Association member other than Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or under applicable law. Any attempt to make a prohibited transfer shall be void. Each purchaser of a Lot shall notify the Association of his purchase of a Lot.

6.10 Creation of the Lien and Personal Obligation of Assessments for Maintenance. Each Owner by hereafter accepting a deed or other conveyance of any Lot, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments; and
- b. Special assessments to be fixed, established and collected as hereinafter provided.

6.11 The annual and special assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon a Lot once each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or entity who was the Owner of the property at the time when the assessment is due. The personal obligation shall not pass to his successors in title, except as provided herein, but shall remain a lien upon the Lot.

6.12 Purpose of Assessments. The assessment levied by the Association shall be used exclusively for (i) the purpose of promoting the health, safety and welfare of the residents and Owners of Lots in Harper Estates; (ii) for the improvement, landscaping, and maintenance of the streets, and Common Elements, lighting and other improvements; and (iii) any other expenses or costs permitted under this Declaration, the Bylaws, rules and regulations of the Association, and the Act. The Association may deposit any surplus funds into a reserve account for general or specified purposes as determined by the Executive Board.

6.13 Annual Assessments.

6.13.1 The annual assessment for each Lot within Harper Estates will be Two Thousand and 00/100 Dollars \$1,2000.00 for the 2025 calendar year;

6.13.2 Annual assessments shall be due and payable to and collectible by, the Association at such times and in such manner (including installments) as from time to time shall be established by the Association; and

6.13.3 For the calendar year 2026 and thereafter, the annual assessment may be changed from time to time by the approval of the annual budget and assessments issued by the Executive Board and approved by the Members at a meeting of the Members, duly called.

6.14 Special Assessments. In addition to the annual assessments authorized above, the Association, through its Executive Board, may levy from time to time a special assessment for the purpose of defraying, in whole or in part, any appropriations, expenses, or capital costs of the Association, including without limitation, the cost of any construction, reconstruction, maintenance, upkeep or repair of any Roads or Common Elements or improvements thereon, including the necessary fixtures and personal property related thereto, provided that any such assessment, when levied shall contain the terms and method of payment therefore and be based upon a certified and signed report from an architect, engineer, or other professional qualified and accredited in the respective field related to such special assessment. The Association shall provide Owners an opportunity to discuss such Special Assessment prior to its issuance. The Association shall permit Owners to submit written objections to the Special Assessment no sooner than thirty (30) days prior to its issuance. The Association shall take objections into consideration; *provided, however,* the Association shall not be required to alter or withdraw any Special Assessment based on objections.

6.15 Rate of Assessment. Both annual and special assessments shall establish a uniform rate for all Lots.

6.16 Date of Commencement of Annual Assessments; Notice of Due Date; Certificate.

6.16.1 Annual assessments shall be for the calendar year. The payment of the annual assessments provided for herein shall commence as to each Lot subject hereto on the first day of the month following the conveyance of such Lot by the Declarant and shall be prorated the first year. Thereafter, the annual assessment shall be due on January 31 of each year;

6.16.2 Written notice of any increase in the annual assessment shall be sent to every Owner subject thereto at least thirty (30) days before the date that the first payment of such increase is due; and

6.16.3 The Association shall, upon demand at any time, furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment stated to have been paid.

6.17 Priority of Lien. The lien for assessments shall have priority over all liens or claims except for (i) liens and encumbrances recorded before the recordation of the Declaration; or (ii) a first security interest on a Lot recorded before the date on which the Assessment sought to be enforced became delinquent, except to the extent of the Assessments based on the periodic budget adopted by the Executive Board that would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien; and (iii) liens for real estate taxes and other governmental assessments or charges against a Lot.

6.18 Enforcement. The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed under the Act, including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the lien for assessments securing the delinquent assessments; or (b) enforce the lien for assessments against a Lot by judicial foreclosure conducted in accordance with the provisions of applicable law, or (c) in any other manner permitted by law. In addition to the foregoing:

(1) The Executive Board may, in their discretion, require the payment of a reasonable late charge, together with interest at the rate established by the Association, when assessment payments are delinquent. The Executive Board shall establish a rule regarding delinquency and the application of fines and interest.

(2) In any case where an assessment against an Owner is payable in installments, upon a default by such Owner that leads to the exercise by the Association of remedies against the Owner for the unpaid Assessment, the maturity of the remaining total of the unpaid installments for the then current budget year may be accelerated, at the option of the Executive Board, and the entire balance of the assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner and his mortgagee by the Executive Board.

(3) The failure of the Association to send a bill to an Owner shall not relieve any Owner of their liability for any assessment or charge under this Declaration.

(4) The Association shall have the right to adopt rules setting forth procedures for the billing and collection of the assessments provided that the procedures are not inconsistent with the provisions of this Declaration or applicable law.

6.19 Remedies Cumulative. The Executive Board shall have all remedies set forth in this Declaration, the Act, the laws of West Virginia, and the laws of the United States to enforce and collect assessments due to it under this Declaration. All remedies set forth in this Declaration shall be cumulative of any remedies available at law or in equity, in any action or remedy taken by the Executive Board to enforce the provisions of this Declaration, if the Executive Board prevail, it shall be entitled to recover all costs, including reasonable attorneys' fees and costs

incurred in such action, regardless of whether suit is filed and including any appeals. In the event of such default in the payment of assessments hereunder, the Association shall be entitled to pursue any and all the remedies afforded at law. No Owner may escape liability for the assessments provided for herein by abandonment of his Lot. No sale or transfer shall relieve such Owner from liability for any assessments thereafter becoming due or arising from a lien thereon.

6.20 No Obligation to Act. The Association shall not be obligated to take action to enforce any covenant, restriction or other requirements of this Declaration that the Association in the exercise of its business judgment determines is: (i) or is likely to be construed as inconsistent with applicable law; (ii), or in any case in which the Association reasonably determines that the Association's position is not strong enough to justify taking enforcement action; (iii) or is not financially in the best interest of the Association based on its duties, financial obligations and reserves; (iv) or is not consistent with the interests of the Association as a whole. Any such determination shall not be construed as a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Executive Board from enforcing any other covenant, restriction or requirement.

6.21 Notification of Change of Ownership. Upon a change of ownership of any Lot, the new owner shall provide the Association: (i) a copy of the deed evidencing the change in ownership and (ii) the names and addresses of the new owners. Upon receipt of such deed and alienation, the Association shall send any notices required by these covenants to such new owners at the addresses indicated.

6.22 Resale Fee. On or before the closing on the sale of a Lot, the selling Owner shall pay \$500.00 to the Association as a transfer fee. If Seller fails to pay the transfer fee to the Association, the Association may assess the new Owner the transfer fee. On or before the sale of a Lot from the Declarant to a purchaser, the purchaser shall pay \$2,000.00 to the Association as a transfer fee. Notwithstanding anything stated in this Section 6.22, the transfer fees described herein shall not be considered part of the annual or other assessments and shall not obviate the Owner's obligation to pay annual or other assessments.

VII. OWNERS' EASEMENTS OF USE AND ENJOYMENT

7.1 Subject to the rights and easements granted to and reserved by the Declarant in Section 3.17, the Declarant hereby GRANTS and CONVEYS to each Owner and his successors and assigns of such Owner's Lot, a non-exclusive right and easement of enjoyment in, to and over the Common Elements as shown on the Plat or additional plats of the various phases of Harper Estates if and when filed with the Clerk's office, which right and easement shall be appurtenant to and shall pass with the title to each Lot, subject to the provisions of this Declaration including, without limitation, the following:

- a. Except as otherwise provided in this Declaration, no dedication, transfer, deed of trust, mortgage or encumbrance of all or any portion of the Common Elements shall

be effective unless persons entitled to cast at least eighty percent of the votes in the Association, including eighty percent of the votes allocated to Lots not owned by the Declarant, agree to such action. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners (except the Declarant, whose consent shall be required so long as the Declarant owns any part of the Property), to dedicate portions of the Common Elements to the public, or grant easements over, under or through portions of the Common Elements to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by the County or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property.

b. The Association shall have the right to regulate the use of the Common Elements through rules and regulations (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Elements, or improvements or amenities thereon, as the Executive Board deems appropriate) and to prohibit access to such portions of the Common Elements, such as landscaped right-of-ways, not intended for use by the Owners.

c. The Declarant and the Association shall each have the right to grant temporary easements or licenses to builders or other persons for the construction of improvements on the Common Elements, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the streets and roads in Harper Estates to persons who are not Members of the Association for those purposes.

d. The Declarant and the Association shall each have the right to convey certain portions of the Common Elements to Owners of adjoining Lots in connection with the correction or adjustment of any boundary between Common Elements and any one or more adjoining Lots.

7.1 The Plat depicts a pond as part of the Common Elements. By the acceptance of a deed for a Lot and the vesting of title in an Owner, each Owner expressly agrees and acknowledges the rights, duties, obligations, waivers, releases, assumption of risk, and indemnities described in this Section 7.1.

EACH OWNER UNDERSTANDS THAT THE USE OF THE POND MAY POSE DANGERS, INCLUDING, BUT NOT LIMITED TO: (A) RISKS OF SERIOUS TEMPORARY OR PERMANENT INJURY, PARALYSIS OR DEATH; (B) DROWNING; (C) OTHER INJURIES SUCH AS BRUISING, SCRAPES, SCRATCHES, SPRAINS, BROKEN BONES, INFECTIONS AND CONTAGIOUS DISEASES; AND (D) POTENTIAL DAMAGE TO, OR LOSS OR THEFT OF, PERSONAL PROPERTY.

THESE RISKS AND DAMAGES MAY ARISE FROM: (I) EACH OWNER'S OWN ACTIONS OR THE ACTIONS OF THIRD-PARTIES; (II) THE NEGLIGENCE OR BAD JUDGMENT OF THE OWNER, OTHER OWNERS, OR THIRD-PARTIES; AND (III) OTHER KNOWN AND UNKNOWN, FORESEEABLE AND UNFORESEEABLE, RISKS AND DAMAGES NOT OTHERWISE IDENTIFIED HEREIN.

IN CONSIDERATION OF THE RIGHTS, DUTIES, AND OBLIGATIONS DESCRIBED IN THIS DECLARATION, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION NOT IDENTIFIED HEREIN, EACH OWNER PERSONALLY ASSUMES, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, ALL RISKS, WHETHER OR NOT SPECIFICALLY IDENTIFIED HEREIN, OF ALL OF THE ACTIVITIES RELATED TO THE POND AND ANY RISKS POSED BY USE OF THE POND; EACH OWNER RELEASES THE DECLARANT AND THE ASSOCIATION FROM ANY AND ALL CLAIMS AND LIABILITY ARISING FROM NEGLIGENCE OR BREACH OF CONTRACT CAUSING INJURY OR DAMAGE TO SUCH OWNER TO THE GREATEST EXTENT THE OWNER IS ABLE TO DO SO; AND EACH OWNER PERSONALLY INDEMNIFIES AND HOLDS HARMLESS THE DECLARANT AND THE ASSOCIATION, FROM ANY AND ALL COSTS, CLAIMS, AND LIABILITY, INCLUDING LEGAL COSTS AND EXPENSES, DIRECTLY OR INDIRECTLY BASED UPON CLAIMS OF NEGLIGENCE OR BREACH OF CONTRACT AS TO ANY ACTIVITY RELATED TO THE USE OF THE POND, AS WELL AS THE COSTS OF ANY MEDICAL OR OTHER EXPENSES INCURRED FOR EACH OWNER'S BENEFIT. EACH OWNER UNDERSTANDS THAT THIS RELEASE IS SUBJECT TO ANY OF SUCH OWNER'S DUTIES OR THE DUTIES OF THE ASSOCIATION OR THE DECLARANT AS PROVIDED IN APPLICABLE FEDERAL OR STATE LAW.

PRIOR TO ACCEPTING TITLE TO A LOT, EACH OWNER AGREES AND SHALL CAREFULLY READ EACH PROVISION OF THIS SECTION 7.1 AND THE DECLARATION IN ITS ENTIRETY, AND EACH OWNER WARRANTS AND REPRESENTS THAT THEY ACCEPT TITLE TO A LOT SUBJECT TO THIS SECTION 7.1.

VIII. AMENDMENT

8.1 Amendment of Declaration. Subject to the Special Declarant's Rights and the Development Rights, and as otherwise provided for in this Declaration, this Declaration and the Plat may be amended only by vote or agreement of the Owners of Lots to which at least sixty-seven percent (67%) of the votes of the Association are allocated under this Agreement.

8.2 Limitation. Except as the Act expressly permits or requires, no amendment may create or increase the Special Declarant Rights, increase the number of Lots, change the boundaries of any Lot, the allocated vote of any Owner of any Lot, or the uses to which any Lot is restricted in the absence of unanimous consent of all of the Owners.

8.3 Termination. This Declaration otherwise may be terminated only as the Act permits and upon no less than upon the agreement of Owners of Lots to which at least eighty percent (80%)

of the votes in the Association are allocated.

IX. GENERAL PROVISIONS

9.1 Governmental Requirements. All governmental building codes, health regulations, zoning restrictions and the like applicable to any Lot now or hereafter made, shall be observed. In the event of any conflict between any provision of any governmental code, regulations or restrictions and any provision of this Declaration, the more restrictive provision shall apply.

9.2 Enforcement. The Declarant, as well as the Association and any Owner of a Lot in Harper Estates, shall have the right to enforce all provisions of this Declaration. Any failure by the Declarant, the Association, or any other Owner to enforce any of such provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidity of any one or more of the provisions hereof shall in no way affect any other provisions not expressly held to be void and all remaining provisions shall remain in full force and effect.

9.3 Breach of Provisions. In the event any Owner fails to comply with or breaches one or more of the provisions hereof, the Declarant or the Association may give such Owner ten (10) days written notice of the failure to comply or breach, and if the same is not corrected, cured or addressed to the Declarant or the Association's satisfaction within those ten (10) days, the Declarant or its designee may at its option, correct, cure, address, or change noncompliance or breach and thereafter recover costs plus 15% from the Owner. All sums shall be collectible as a debt and additionally may be entered as a lien by the Association against the Lot of the Owner breaching the provision and enforced in the same manner as an unpaid assessment. Such lien shall have the same validity and enforceability as a lien for unpaid assessments of the Association.

9.4 Delegation and Assignment. The Declarant shall at all times and from time to time have the right to delegate any and all functions herein reserved and to assign part or all of its rights, duties and obligations hereunder to the Association. Further, the Declarant shall have the right to transfer, convey and assign all or any part of any right, title and interest reserved hereby; provided that any transferee, grantee or assignee shall take such rights subject to the obligations of the Declarant. Any such delegation, transfer or assignment shall be recorded in the Clerk's office.

9.5 Headings. Headings are in no way to be construed as defining, limiting or otherwise modifying or adding to the particular paragraphs to which they refer. The provisions and covenants as set forth herein shall be binding upon and inure to the benefit the Declarant, the Association and all persons who become Owners of Lots in Harper Estates.

9.6 "He" means he, she, it or they; "Him" means him, her, it or they; and "his" means, his, her, its or theirs, as the case may be to fit the contest.

9.7 Creation of Lot 20. Under the Original Declaration, Parcel D (as described on Exhibit A attached hereto) was subjected to this Declaration with the simultaneous intent of Parcel D being created as Lot 20. For the avoidance of doubt and to confirm the creation of Lot 20, the

Declarant hereby creates Lot 20 from Parcel D.

9.8 Priority. This Declaration shall become effective upon its recordation in the office of the Clerk of the County Commission of Monongalia County, West Virginia. This Declaration shall supersede, control, and replace the Original Declaration and any and all declarations, amendments, instruments, or other documents related to Harper Estates, whether or not they were placed of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia. Simultaneously with the execution and recording of this Declaration, the Declarant shall file an amended Plat for Harper Estates. The Plat shall supersede, control, and replace that certain plat referenced and defined in the Original Declaration and any and all other plats, maps or declaration plans related to Harper Estates, whether or not they were placed of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia.

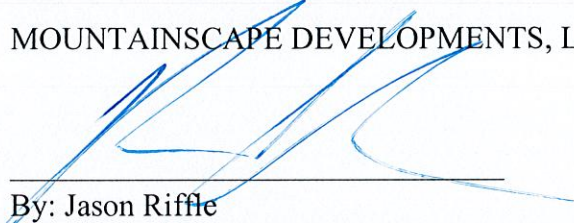
[This is the end of the Declaration]

[Signature page follows]

[Signature page for Declaration for Harper Estates]

IN WITNESS WHEREOF, the Declarant by its duly authorized representative has caused this Declaration to be executed by its duly authorized representative as of the date first written above.

MOUNTAINSCAPE DEVELOPMENTS, LLC

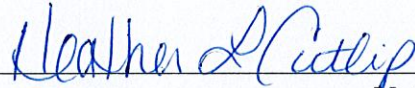

By: Jason Riffle

Its: Authorized Member

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this 29th day of May, 2025, by Jason Riffle, as the authorized member of Mountainscape Developments, LLC, a West Virginia limited liability company, for and on behalf of the company.

My commission expires: Jan 23, 2029



Notary Public

[notary seal]



[Signature page for Declaration for Harper Estates]

Riffle Contracting LLC, a West Virginia limited liability company, joins in this Declaration as the owner of that certain Parcel D described on Exhibit A attached hereto and shown on the Plat. Riffle Contracting LLC hereby submits Parcel D to this Declaration and agrees to its creation as Lot 20. By signing above, Mountainscape Developments, LLC, as Declarant, consents and agrees to the submission of Parcel D to this Declaration and its creation as Lot 20. Riffle Contracting LLC also joins in this Declaration to evidence its consent and approval of this Declaration to the extent such consent and approval is necessary.

RIFFLE CONTRACTING LLC

By: Jason Riffle

Its: Authorized Member

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this 29th day of May, 2025, by Jason Riffle, as the authorized member of Riffle Contracting LLC, a West Virginia limited liability company, for and on behalf of the company.

My commission expires:

Jan 23, 2029

Heather L Cutlip

Notary Public

[notary seal]



[Signature page for Declaration for Harper Estates]

IN WITNESS WHEREOF, A&M Homes LLC, a West Virginia limited liability company, as the Owner of Lot 11, joins in this Declaration to evidence its consent and approval of this Declaration to the extent such consent and approval is necessary.

A&M Homes LLC

By: Hetzon Marroquin Reyes

Its: Authorized Member

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

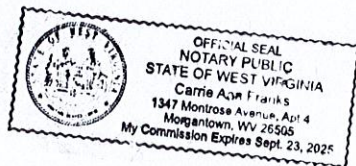
The foregoing instrument was acknowledged before me this 29 day of May, 2025, by Hetzon Marroquin Reyes, as the authorized member of A&M Homes LLC, a West Virginia limited liability company, for and on behalf of the company.

My commission expires:

Sept 23, 2025

Notary Public

[notary seal]



[Signature page for Declaration for Harper Estates]

IN WITNESS WHEREOF, Richard and Rita Rodriguez, as the Owners of Lots 12 and 13, in this Declaration to evidence its consent and approval of this Declaration to the extent such consent and approval is necessary.


RICHARD RODRIGUEZ


RITA RODRIGUEZ

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this 29th day of May, 2025, by Richard and Rita Rodriguez.

My commission expires: Jan 23, 2029.


Notary Public

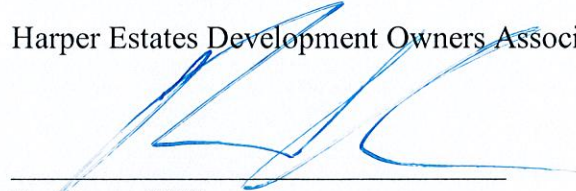
[notary seal]



[Signature page for Declaration for Harper Estates]

IN WITNESS WHEREOF, Harper Estates Development Owners Association, Inc., a West Virginia nonprofit corporation and the homeowners association for Harper Estates, joins in this Declaration to evidence its consent and approval of this Declaration to the extent such consent and approval is necessary.

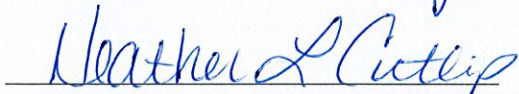
Harper Estates Development Owners Association, Inc.


By: Jason Riffle
Its: President

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this 29th day of May, 2025, by Jason Riffle, as the president of Harper Estates Development Owners Association, Inc., a West Virginia nonprofit corporation and the homeowners association for Harper Estates, for and on behalf of the corporation.

My commission expires: Jan 23, 2029


Notary Public

[notary seal]

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Heather L. Cutlip
1714 Mileground Rd
Morgantown, WV 26505
My Commission Expires Jan. 23, 2029

This instrument was prepared by John R. Bsharah, Lewis Gianola PLLC, P. O. Box 1746, Charleston, W. Va. 25326.

EXHIBIT A

The Property

PARCEL A:

All that certain tract or parcel of real estate, situate, lying and being in Morgan District, Monongalia County, West Virginia, and more particularly described as follows:

Beginning at a 5/8-inch capped iron rod (set), standing in the line of now or formerly lands of the City of Morgantown (Deed Book 1533 /Page 297), see plat of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia in Plat Cabinet 5, at File 186B, and as a corner to Parcel "B", a part of this survey and a part of the lands of Mountainscape Developments, LLC (Deed Book 1844/Page 150); thence leaving Parcel "B" and with City of Morgantown

S 84° 53' 18" E 26.25 feet to a point, standing as a corner to Parcel "C", a part of this survey and a part of the lands of Riffle Contracting LLC (Deed Book 1792 /Page 410); thence leaving City of Morgantown and with Parcel "C"

S 21° 29' 52" E 256.65 feet to a ½-inch iron rod (found), standing as a corner to Parcel "E", a part of this survey and a part of the lands of Erik C. and Leah C. Parow (Deed Book 1216 /Page 610) and Parcel "C"; thence leaving Parcel "C" and with Parcel "E"

S 06° 12' 38" W 150.00 feet to a ½-inch iron rod (found); thence

S 83° 47' 22" E 456.48 feet to a 5/8-inch capped iron rod (set); thence

N 06° 12' 38" E 150.00 feet to a 3/4-inch iron pipe (found); thence

N 83° 47' 22" W 90.00 feet to a ½-inch iron rod (found); thence

N 20° 13' 08" E 109.93 feet to a ½-inch iron rod (found); thence

N 55° 38' 22" W 83.87 feet to a ½-inch iron rod (found), standing as a corner to said Parcel "C" and Parcel "E"; thence leaving Parcel "E" and with Parcel "C"

S 81° 56' 09" E 421.02 feet to a point, standing as a corner to Easement 2, a part of this survey; thence continuing with Parcel "C", along the easterly line of Easement 2, a non-tangent curve, turning to the left, having a radius of 114.00 feet

Northeasterly 71.00 feet along said curve to a point, said curve having a chord bearing and distance of N 49° 02' 13" E 69.86 feet; thence continuing with Parcel "C", along the easterly line of Easement 2

N 05° 28' 14" E 47.03 feet to a point, standing as a corner to Easement 1, a part of this survey and Easement 2; thence leaving Easement 2 and continuing with Parcel "C", along the westerly line of Easement 1

N 05° 28' 14" E 99.59 feet to a point; thence

N 16° 35' 51" W 52.74 feet to a point in Monongalia County Route 119/7, commonly known as Easton Mill Road, standing in the line of now or formerly Robert B. and Tracy L. Conners, Jr. (Deed Book 1483 /Page 376) and as a corner to Parcel C; thence leaving Parcel "C" and with Conners, along Easton Mill Road

S 74° 39' 24" E 125.20 feet to a point, standing as a corner to now or formerly Robert J. and Shelia F. Adams (Deed Book 1148 /Page 662), Easement 1 and Conners; thence leaving Conners and Easton Mill Road and with Adams, along the easterly line of Easement 1

S 10° 18' 46" W 127.46 feet to a 5/8-inch capped iron rod (set), standing as a corner to Easement 1 and Adams, passing through a 5/8-inch capped iron rod (set) on the southerly side of Easton Mill Road at 16.80 feet; thence leaving Easement 1 and continuing with Adams

S 58° 58' 41" E 2.00 feet to a 5/8-inch capped iron rod (set); thence

S 21° 27' 19" W 428.51 feet to a 5/8-inch capped iron rod (set); thence continuing with Adams for a partial line and then continuing with now or formerly William M. and Deena K. Young (Deed Book 1264 /Page 697)

S 56° 58' 41" E 461.97 feet to a 5/8-inch capped iron rod (set), standing in the outline of Elm Crest Subdivision, as depicted on a plat of record in said Clerks Office in Plat Cabinet 2, at File 416B, standing as a corner to said Young; thence leaving Young and with the outline of Elm Crest

S 36° 08' 18" W 194.48 feet to a 5/8-inch capped iron rod (set), standing as a corner to now or formerly Monongalia County Development Authority (Deed Book 1542 /Page 412); thence leaving outline of Elm Crest and with Monongalia County Development Authority

N 74° 54' 41" W 1496.62 feet to a 6-inch concrete monument (found), standing as a corner to said Parcel "B" and Monongalia County Development Authority; thence leaving Monongalia County Development Authority and with Parcel "B"

N 30° 23' 19" E 608.20 feet to the place of beginning, **containing 14.08 acres**, more or less, minus a 0.46- acre tract, leaving a net area of **13.62-acres**, as surveyed in June 2024 by Cheat Road Engineering, Inc., of Morgantown, West Virginia and shown as Parcel "A" on a plat of survey for Harpers Estates – Residential Subdivision, dated the 10th day of June 2024. The meridian for all bearings in this description is based on (Grid North) of the West Virginia State Plane coordinate system.

Being a part of the same tract or parcel of real estate in the conveyance between Michael A. Lemery and Karen S. Kemery, parties of the first part, GRANTORS, and Riffle Contracting LLC, a West Virginia limited liability company, party of the second part, GRANTEE, by deed dated the 25th day of October, 2022, of record in the Office of the Clerk of the County Commission of

Monongalia County, West Virginia, in Deed Book 1792, at Page 410. Said lot or parcel of real estate is assessed on the land books for Morgan District, Monongalia County, West Virginia and is more specifically shown on Tax Map 7, as Parcel 7.2 and part of Parcel 7.

PARCEL B:

All that certain tract or parcel of real estate, situate, lying and being in Morgan District, Monongalia County, West Virginia, and more particularly described as follows:

Beginning at a 5/8-inch capped iron rod (set), standing in the line of now or formerly lands of the City of Morgantown (Deed Book 1533 /Page 297), see plat of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia in Plat Cabinet 5, at File 186B, standing as a corner to Parcel "A", a part of this survey and a part of the lands of Riffle Contracting LLC (Deed Book 1792 /Page 410); thence leaving City of Morgantown and with Parcel "A"

S 30° 23' 19" W 608.20 feet to a 6-inch concrete monument (found) standing as a corner to now or formerly Monongalia County Development Authority (Deed Book 1542 /Page 412) and Parcel "A"; thence leaving Parcel "A" and with Monongalia County Development Authority

S 32° 50' 51" W 323.59 feet to a 5/8-inch iron rod (found), standing as a corner to other lands of Monongalia County Development Authority; thence with other lands of Monongalia County Development Authority

N 03° 17' 14" E 621.36 feet to a 5/8-inch iron rod (found); thence

N 21° 32' 42" E 84.08 feet to a 5/8-inch iron rod (found), standing as a corner to said City of Morgantown and Monongalia County Development Authority; thence leaving Monongalia County Development Authority and with City of Morgantown

N 47° 12' 48" E 62.43 feet to a point; thence

N 62° 19' 52" E 191.52 feet to a point; thence

S 78° 36' 18" E 139.99 feet to a 3/4-inch capped iron rod (found); thence

S 84° 53' 18" E 64.27 feet to the place of beginning, **containing 3.96 acres**, more or less, as surveyed in June 2024 by Cheat Road Engineering, Inc., of Morgantown, West Virginia and shown as Parcel "B" on a plat of survey for Harpers Estates – Residential Subdivision, dated the 10th day of June 2024. The meridian for all bearings in this description is based on (Grid North) of the West Virginia State Plane coordinate system.

Being the same tract or parcel of real estate in the conveyance between, David E. Bryte and Brian E. Bryte, parties of the first part, GRANTORS, and Mountainscape Developments LLC, party of the second part, GRANTEE, by deed dated the 4th day of April 2024, of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1844, at Page 150. Said lot or parcel of real estate is assessed on the land books for Morgan District,

Monongalia County, West Virginia and is more specifically shown on Tax Map 7, as Parcels 5, 6 and 6.2.

PARCEL D (a/k/a Lot 20):

All that certain tract or parcel of real estate, situate, lying and being in Morgan District, Monongalia County, West Virginia, and more particularly described as follows:

Beginning at a point, standing as a corner to Parcel "A", a part of this survey and a part of the lands of Riffle Contracting LLC (Deed Book 1792 /Page 410), and as a corner to Easement 3, a part of this survey, said point bears N 82° 38' 17" E 133.50 feet from a 5/8-inch capped iron rod (set), standing as a corner to Parcel "E", a part of this survey, now or formerly Erik C. and Leah C. Parow (Deed Book 1216 /Page 610) and Parcel "A"; thence with Parcel "A", along the easterly line of Easement 3

S 69° 07' 48" E 89.37 feet to a point; thence with a curve turning to the right, having as radius of 99.00 feet

Southeasterly 148.29 feet along said curve to a point, said curve having a chord bearing and distance of S 26° 13' 06" E 134.81 feet; thence continuing with Parcel "A", along the easterly line of Easement 3

S 16° 41' 35" W 34.49 feet to a point; thence continuing with Parcel "A", with and then leaving Easement 3

N 86° 14' 38" W 125.13 feet to a 5/8-inch capped iron rod (set), passing through a 5/8-inch capped iron rod (set) on the westerly side of Easement 3 at 24.62 feet; thence

N 04° 24' 39" E 64.34 feet to a 5/8-inch capped iron rod (set); thence

N 06° 39' 35" W 114.23 feet to the place of beginning, **containing 20,023 square feet or 0.46 acres**, more or less, passing through a 5/8-inch capped iron rod (set) in the southerly line of Easement C at 97.33 feet, as surveyed in June 2024 by Cheat Road Engineering, Inc., of Morgantown, West Virginia and shown as Parcel "D" on a plat of survey for Harpers Estates – Residential Subdivision, dated the 10th day of June 2024. The meridian for all bearings in this description is based on (Grid North) of the West Virginia State Plane coordinate system.

Being a part of the same tract or parcel of real estate in the conveyance between Michael A. Lemery and Karen S. Kemery, parties of the first part, GRANTORS, and Riffle Contracting LLC, a West Virginia limited liability company, party of the second part, GRANTEE, by deed dated the 25th day of October, 2022, of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1792, at Page 410. Said lot or parcel of real estate is assessed on the land books for Morgan District, Monongalia County, West Virginia and is more specifically shown on Tax Map 7, as Parcel 7.2 and part of Parcel 7.