



EWING ESTATES

RESTRICTIVE COVENANTS AND CONDITIONS FOR
EWING ESTATES

The following covenants and conditions shall apply to the numbered lots in the real estate development known as Ewing Estates, lying and being situate in Moorefield District, Hardy County, West Virginia, and being a portion of the real estate conveyed unto John E. Madsen by deed from David R. Ewing, dated July 26, 2006, and recorded in the Hardy County Clerk's Office in Deed Book 292, Page 903. A plat of the numbered lots of Ewing Estates is to be recorded in the Hardy County Clerk's Office contemporaneously with the recording of this document.

Each and every one of the covenants and conditions contained herein is, and all are, for the benefit of John Madsen and each owner of the various lots within Ewing Estates, or any interest therein, and shall be construed to run with the land and each and every part and parcel thereof, regardless of how title was acquired. These covenants and conditions shall remain in full force and effect unless and until modified by the owners of all of the lots of Ewing Estates, by formal amendment signed by each and every owner of each and every lot in Ewing Estates and properly recorded.

In the event of violation or breach of the covenants and conditions contained herein, or threatened breach thereof, John Madsen and the owner or owners of any of the lots in Ewing Estates shall have the right to enjoin said violation or threat thereof, by virtue of proceedings at law or equity against the person or persons violating or threatening to violate said covenants and conditions, and those enforcing the provisions of the covenants and conditions contained herein, shall have the right to recover damages for themselves and on behalf of all other owners of the various lots in Ewing Estates as well as attorney's fees and other costs relating to any such enforcement by legal proceeding. No delay or omission in exercising any rights, powers or remedies provided under law or in this paragraph shall be construed as a waiver thereof or acquiescence of the violations or threatened violations.

Invalidation by any court of competent jurisdiction, of any specific covenant or condition contained herein shall in no way affect any other condition or covenant, and all covenants and conditions not expressly invalidated by a court of competent jurisdiction shall remain in full force and effect.

The Grantor herein is John E. Madsen, who is also the developer of Ewing Estates, and John E. Madsen, his heirs and successors, shall hereinafter be referred to as "Grantor". The Grantor believes it is essential to promote the use of renewable energy sources or backup power systems for new home construction. In the event that the Grantor constructs a new home on a Ewing Estates lot, said home will include, free of charge, either a renewable energy power source or backup power system. However, an individual purchasing an unimproved lot in the development will not be subject to this requirement, in the event they utilize another builder for the construction of their structure.

The Grantor shall assess each lot owner in the amount of Three Hundred Dollars (\$300) per year per lot, for the use, upkeep, snow removal and maintenance of the rights-of-way within Ewing Estates. The Grantor is exempt from this assessment with regard to any lots he retains or subsequently obtains in his own name. The Grantor, his heirs and successors, shall be responsible for the aforesaid upkeep, snow removal and maintenance of the Ewing Estates rights-of-way until the rights and responsibilities as created by this paragraph are delegated by the Grantor to a lot owners association as described below. Any assessment made pursuant to this paragraph shall constitute a lien on the respective lot until paid, and payment of said assessment shall be made on or before the 15th day of January next following the purchase of any said lot, and on or before the 15th day of January of each year thereafter. When more than one lot is owned by a party or parties, and in the event of resale by them of one or more of said lots, then the obligation to pay said fee shall be binding upon the purchaser or purchasers of said lots, without any provision in their Deed of conveyance specifically so providing.

2. A lot owners association shall be established contemporaneously with the sale of the tenth (10th) lot of the development. At that time, the Grantor shall appoint an initial Board of Directors that shall serve until a meeting of the Association may be called and Officers elected. An election shall be held no later than one (1) year from the date of the appointment of the Board of Directors as aforesaid. The lot owners association shall develop its own rules and/or bylaws and shall take such steps as are necessary to carry out the maintenance, upkeep and snow removal and use of the rights-of-way within Ewing Estates. Each lot owner shall be deemed a member of the lot owners association.

Each lot owner shall be responsible for maintenance of their respective individual driveways from its intersection with the subdivision road and these driveways shall not be subject to being maintained by the Grantor or

the lot owners association. In instances where a "spur" road comes off the main development road to two lots, maintenance of the spur shall be the responsibility of the Grantor and/or the association to the point where the roads diverge to provide access to each individual lot, and from that point, the individual lot owners will be responsible for maintenance of their own driveway.

The Grantor shall, at the time of the appointment of the Board of Directors, turn over to the Board of Directors the balance of the funds that the Grantor has collected pursuant to the provisions of Paragraph 1, along with a simple accounting of all funds collected and dispersed during the period the Grantor has been responsible for said collections and road maintenance.

3. The Grantor reserves the right to use any and all subdivision roads to access any property he currently owns or obtains in the future adjacent to Ewing Estates. The Grantor reserves to himself, his heirs and successors, a strip of land twenty-five feet (25') wide at any point along the side, rear or front lines of any of the lots in Ewing Estates for purposes of installing, repairing and maintaining utilities, along with a right of ingress and egress to said easements for said purpose. When two lots immediately adjacent to one another are owned by the same individual or group of individuals and said lots are not separated by a right-of-way along the entire boundary, then and in that event, said owner or owners may build permanent structures within said twenty-five foot (25') easement, with the express understanding that in the event this action is taken, the Grantor reserves a right-of-way twenty feet (20') in width along the outside boundary of either lot for the purposes set forth above.

4. At present, there are fifteen (15) lots constituting, and represented on the plat of Phase 1, Ewing Estates; however, these covenants and conditions shall apply to any additional lots created by the Grantor.

5. No subdivision of any of the lots within Ewing Estates shall be permitted.

6. No trucks, old cars or unsightly or unlicensed vehicles of any type, nature or kind shall be permitted to remain on any lot. A motor vehicle that does not have current license plates or has an inspection sticker that is six (6) months or more out of date, shall not be permitted to remain on any lot.

7. No parking is permitted on any road described or set forth on the plat for Ewing Estates, at any time, and the owner of each lot shall provide adequate off-road parking for the owner and guests.

8. No signs of any type shall be erected or maintained on any lot other than directional and/or information signs erected by the Grantor, except that For Sale signs or rental signs not to exceed six (6) square feet in area may be erected on the lots by the owner; however, said signs must comply with any ordinances related thereto. The Grantor specifically reserves for himself, the right to erect a billboard type advertising sign on one of the development lots immediately adjacent to Corridor H; however, the erection of said sign shall take place prior to the lot being sold by the Grantor and responsibility for maintenance of said sign shall be incumbent upon the Grantor.

Mobile homes and trailers of any type, including doublewides, are prohibited on any lot within Ewing Estates. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with construction operations and in such cases, for a period not to exceed eight (8) months, provided however, nothing herein shall be construed to prevent an owner from erecting tents on the lot and to camp overnight in said tents for a period of up to fifteen (15) days. A camping or travel trailer, up to and including thirty feet (30') in length, shall be permitted on lots up to a maximum of three (3) months per calendar year; however, two (2) camping or travel trailers, up to thirty feet (30') in length, shall only be permitted to remain on any lot for a period of time not to exceed thirty (30) days in any calendar year. No additions of any type, nature or kind shall be permitted to be built on any camping or travel trailer during its temporary stay.

10. Not more than one (1) single-family residence shall be erected on a lot. Residences shall contain a minimum of nine hundred (900) square feet for a single-story or ranch style residence, and a minimum of one thousand four hundred (1,400) square feet for a two-story residence. Such square foot minimum is of living area, excluding basement area, garage, porch, carport, deck and overhanging eaves. All exterior construction, improvements or exterior remodeling or renovation must be completed and closed in within twelve (12) months of the commencement of construction. All structures erected upon said lot shall be upon a solid foundation (poured concrete, concrete block, or solid stone), and shall be constructed of good finishing materials and constructed in a good and workmanshiplike manner. Tarpaper, rolled siding, insulation siding and concrete block are specifically not considered to be finishing materials. No exterior siding of masonry block or cinder block shall be permitted. Guest Homes are permitted provided they comply with the size and siding requirements set forth above, and that they are not occupied on a permanent basis.

11. No structure of any type, nature or kind on the lots in Ewing Estates, may be erected closer than twenty-five feet (25') to any road or right-of-way within Ewing Estates, nor shall any structure of any type, nature or kind be erected or placed closer than twenty-five feet (25') to the perimeter boundary of any lot.

12. No building shall be constructed and no well shall be drilled on any lot unless the proper construction and sewage disposal permits have been obtained, and all other necessary and appropriate permits have been acquired.

Each lot shall be used for residential/recreational purposes only, and any garage, barn or Guest House not conforming generally in appearance and material with any dwelling on said lot, is prohibited.

14. No businesses shall be operated on any lot within Ewing Estates, with the exception that home occupations conducted by occupants, and businesses operated on an electronic basis from within the structures situate on any lot, shall be permitted; however, no advertising for said business shall be permitted and no traffic relating to said business shall be permitted within Ewing Estates, or on any lot.

15. No owner of any lot shall interfere with the natural drainage or surface water of said lot to the detriment of any other lot. Consequently, in the construction of driveways into any lot, a minimum twelve-inch (12") diameter culvert shall be used in constructing the driveway in order to facilitate natural drainage. No owner of any lot shall disturb any wetlands existing on any lots without first securing all permits required from all federal, state or local government agencies.

16. The owner of each lot shall promptly maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on their lot. Owners likewise must repair and restore promptly, to its prior condition, any part of a road or right-of-way within Ewing Estates that is damaged by equipment of any lot owner or his contractor enroute to or from owner's lot. All lots, improved or unimproved, must be maintained by the owner in a neat and orderly condition at all times. No garbage, rubbish, junk, refuse, trash or other debris shall be permitted to accumulate or remain on any lot. Each lot owner is responsible for keeping all trash and garbage in insect and rodent-proof receptacles and shall remove or dispose of trash at least every fourteen (14) days.

17. No hunting with center-fire ammunition is permitted in Ewing Estates by any person at any time.

18. Livestock, other than dogs and cats, shall be limited in number to four (4). The operation of any poultry operation of any type, nature or kind on any lot is strictly prohibited. Pigs are not permitted to be kept on any lot. No owner may keep or maintain on a lot a Pit Bull or other vicious dog as defined by West Virginia law. No pet shall be allowed to be a nuisance or danger to other lot owners. A continually barking dog shall be deemed to be a public nuisance and shall be removed from any lot forthwith. All pets must be kept within the physical boundaries of each lot and lot owners are expected to use reasonable care so that pets maintained by the owner do not trespass on another owner's property. West Virginia has strict laws that charge an owner or keeper of dogs with liability for damages inflicted by a dog regardless of the disposition of the animal. Each pet owner has a non-delegable duty to inquire with the State of West Virginia concerning his duties as a pet owner. No wild animal may be kept on a lot. The State of West Virginia has adopted laws defining what is a wild animal versus a domesticated animal, and an owner assumes the duty of inquiry. An owner may keep up to four (4) large animals (defined to mean weighing over forty [40] pounds, except that a dog shall not be considered a large animal regardless of weight), such as horses or cattle. The offspring, i.e. calf or foal, shall be excluded from this number for a period of one (1) year after its birth. No large animals shall be kept or maintained in violation of any local, state or federal laws. All animals kept or maintained on any lot shall be suitably confined by fence or other accessory that restrains the animal from trespassing on rights-of-way, common easements or other owners' property. Any animals kept on a year-round basis shall be housed in an appropriate shelter or barn that is regularly maintained so as not to deter from the value of surrounding lots.

19. The use or operation of any motorcycle, dirt bike, all-terrain vehicle or any vehicle that produces unusually loud or disturbing noise, shall not be permitted within Ewing Estates, from 5:00 p.m. until 10:00 a.m. daily. Said vehicles shall only be used on subdivision roads as necessary to obtain ingress and egress from the public road. In other words, repetitive joy or pleasure riding up and down subdivision roads for recreational purposes is prohibited. No owner shall create a track for purposes of racing off-road vehicles, dirt bikes or other all-terrain vehicles, or similar motorized conveyances. Racing is strictly prohibited.

20. No commercial timbering shall be permitted on any lot; however, reasonable cutting of wood and timber for purposes of clearing a building site

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is permitted, and standing or fallen dead wood may be cut for personal use of the lot owner.

21. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon that may be or may become an annoyance or nuisance to others in the development.

The Grantor reserves the right to correct any deficiencies or errors found in these Covenants and Conditions as necessary or appropriate for the purpose of maintaining the desirability and value of all lots within the development or to bring the development into compliance with the requirements of any government regulations.

The Grantor hereby claims an exemption from the West Virginia Uniform Common Interest Ownership Act, (WV Code Ch. 36b, Article 1, Section 203) inasmuch as Ewing Estates is a "small, planned community" and is not subject to any "development rights", and has no common areas or elements, other than access roads.

WITNESS the following signature and seal this 11 day of October 2006.

John E. Madsen (SEAL)
JOHN E. MADSEN

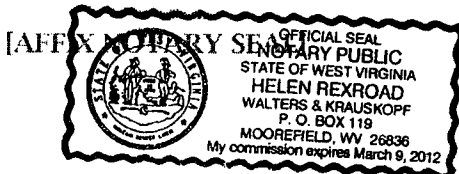
STATE OF West Virginia
COUNTY OF Hardy, to wit:

I, Helen Rexroad, a Notary Public in and for the county and state aforesaid, do hereby certify that John E. Madsen, designated as "Grantor" in the foregoing document, whose name is signed to the foregoing document, bearing date the 11 day of Oct., 2006, has this day acknowledged the same before me in my said county and state.

Given under my hand this 11 day of Oct., 2006.

My commission expires 3-9-12

WALTERS, KRAUSKOPF
& BAKER
ATTORNEYS AT LAW
MOOREFIELD
WEST VIRGINIA



Helen Rexroad
Notary Public

This document presented and filed:
10/11/2006 02:41:29 PM

Gregory L. Ely

Gregory L. Ely, Hardy County, WV
Transfer Tax: \$0.00

THIS DOCUMENT PREPARED BY HOWARD E. KRAUSKOPF
WALTERS, KRAUSKOPF & BAKER, ATTORNEYS AT LAW
P.O. Box 119, MOOREFIELD, WV 26836