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# HIGHPOINT FARMS, SECTION I and SECTION II

STATE OF SOUTH CAROLINA } CORRECTIVE LAND USE RESTRICTIONS, PROTECTIVE  
 } COVENANTS AND BUILDING STANDARDS,  
 } HOME OWNER'S ASSOCIATION  
 COUNTY OF SPARTANBURG } & DRIVEWAY RIGHT-OF-WAY AGREEMENT

WHEREAS, by Land Use Restrictions, Protective Covenants and Building Standards, Home Owner's Association & Driveway Right-of-Way Agreement dated December 29, 1998, and recorded February 2, 1999, in Deed Book 69-H, pages 450-455, in the RMC Office for Spartanburg County, South Carolina, West Mountain Development Corporation, Inc., attempted to establish a general plan of development as herein set out to restrict the use and occupancy of the property for the protection of the property and the future OWNERS thereof, and

WHEREAS, the aforesaid Land Use Restrictions, Protective Covenants and Building Standards, Home Owner's Association & Driveway Right-of-Way Agreement contained an error in the location of the recorded plat,

WHEREAS, it is the desire and intention of West Mountain Development Corporation, Inc. to correct the said scrivener's error by the execution of this Corrective Land Use Restrictions, Protective Covenants and Building Standards, Home Owner's Association & Driveway Right-of-Way Agreement

WHEREAS, WEST MOUNTAIN DEVELOPMENT CORPORATION, INC., a South Carolina Corporation, hereinafter referred to as "DEVELOPER," is the owner of certain tracts of land known as HIGHPOINT FARMS, SECTION I located near Lake Blalock, in the County of Spartanburg, State of South Carolina, and being more particularly shown and designated on a Plat prepared by James V. Gregory, PLS, entitled, "HIGHPOINT FARMS, SECTION I," dated October 6, 1997, containing 16.352 acres, and said Plat recorded May 6, 1998, in plat book 141, page 186, in the RMC Office for Spartanburg County, AND ALSO, HIGHPOINT FARMS, SECTION II located near Lake Blalock, in the County of Spartanburg, State of South Carolina, and being more particularly shown and designated on a Plat prepared by James V. Gregory, PLS, entitled, "HIGHPOINT FARMS, SECTION II," dated October 8, 1997, and revised December 4, 1998 containing 49.443 acres and said Plat recorded February 2, 1999, in plat book 143, page 712, in the RMC Office for Spartanburg County. Both Section I and Section II shall hereinafter collectively be referred to as "HIGHPOINT FARMS."

"OWNER or OWNER'S," as identified hereunder, is deemed to be any person, persons, or entity holding a fee simple interest in any lot located within HIGHPOINT FARMS.

"DEVELOPER", as identified hereunder, is deemed to be West Mountain Development Corporation, Inc., by its duly-authorized officers; or to any person, persons, committee, association or entity, that becomes empowered by West Mountain Development Corporation, Inc. to act in its behalf.

WHEREAS, DEVELOPER has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property for the protection of the property and the future OWNERS thereof.

WHEREAS, DEVELOPER reserves the right to appoint a qualified person or person(s) to act in its behalf and should such appointment be made, then such appointee shall be empowered to act in its stead to approve and disapprove, litigate and defend these standards as set forth herein.

WHEREAS, Spartanburg County has no obligation to accept responsibility for maintenance of the roadway (Pastorale Drive) or the road "Right-of-Way" easement "Right-of-Way" as shown upon the plat at any time in the future unless such roadway or Right-of-Way easement shall be re-constructed in accordance with the Spartanburg County Subdivision Regulations at no expense to the County.

AND WHEREAS, This property is conveyed subject to the following conditions which are covenants running with the land and incorporation of these restrictions by reference in deeds to the property shall constitute in each deed a covenant running with the land as follows: As part of the consideration it shall be the duty of each grantee to maintain the "Right-of-Way" shown upon the plat referred to and this shall be a covenant running with the title.

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES, West Mountain Development Corporation, Inc. as DEVELOPER, agrees with any and all persons, firms or corporations hereinafter described that HIGHPOINT FARMS shall be and is hereby subject to the following Restrictions, Covenants and Standards relating to the use and occupancy thereof, which are to be construed as Land Use Restrictions, Protective Covenants and Building Standards running with the land comprising the lots hereinafter described and shall enure to the benefit of and be binding upon the successors and assigns of West Mountain Development Corporation, Inc. and all other persons and parties:



1. The property which is made subject to the conditions set forth herein is more particularly described as Lots number 1,2, and 3, as shown on a plat entitled "Highpoint Farms, Section I" and Lots Number 4, 5, 6, 7, 8, 9, 10 and 11, on a plat entitled, "Highpoint Farms, Section II."
2. Mobile homes are prohibited in Highpoint Farms. "Mobile Home" means a trailer or structure transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
3. No dwelling shall be erected, constructed, or placed on any lot in HIGHPOINT FARMS until and unless the proposed building plans, complete with specifications, and plot plans (showing the proposed location of such building or structure on the lot), shall have been approved in writing by the DEVELOPER. Refusal of approval of plans, location or specification may be based by the DEVELOPER upon non conformity with these covenants and shall further allow for rejection based on purely aesthetic conditions, which in the sole discretion of the DEVELOPER shall be deemed sufficient. If DEVELOPER, or its designated agent, fails to approve or disapprove such building and plot plans and specifications within thirty (30) days after same have been submitted to DEVELOPER, or its designated agent, by personal service or certified mail, then such approval from DEVELOPER shall not be required. Notwithstanding any provision contained herein under no circumstances shall the failure of DEVELOPER to approve or disapprove of any plans, locations, or specifications be construed as granting any Lot Owner the right or privilege to violate any of these Land Use Restrictions Building Standards or Protective Covenants contained herein.
4. No building shall be erected, placed or permitted to remain on any lot other than a detached single family dwelling and barns, sheds, or outbuildings incidental to agricultural or residential use. These barns, sheds, and outbuildings shall be constructed in such a workmanlike manner as to be compatible to the primary residence; shall be constructed of quality, construction grade materials; and shall be completely finished on the exterior with approved construction grade materials. In no case shall concrete block be exposed; if used for foundation or any wall, it shall be stuccoed or brick veneered. All primary residences shall have either an enclosed double garage or a double carport that faces to the side or to the rear of the dwelling. Only one (1) primary residence may be erected on a single lot; provided however that an accessory dwelling (guest house) is allowable only on that portion of Lot # 5 lying within 350 feet of the 720 contour line as shown on the aforementioned plat. Such accessory dwelling shall be constructed subject to Provision #3 above and shall comply with the Spartanburg County Ordinance for accessory dwellings. Additionally, a Class 2 Buffer-yard will be required along the boundary with lot 6.
5. Minimum square footage of dwellings shall be determined by both lot number and location of dwelling on the lot. If any portion of a dwelling shall be located further than 350 linear feet from the 720 contour line as indicated on the above referenced plats, OR dwelling is located on lots number 1,2,3,4,10 or 11, then said dwelling shall contain a minimum of 2000 square feet of heated floor space exclusive of porches, garages or basements. A dwelling constructed on lot number 5 as a primary residence as opposed to an accessory dwelling, and any primary dwellings constructed on lots 6, 7, 8, and 9 located within 350 linear feet of the 720 contour line shall be required to have a minimum 1500 square feet of heated floor space exclusive of porches, garages, or basements. It shall be further required that OWNERS of dwellings so constructed shall construct and/or maintain a Class 2 Buffer-yard of sufficient density to obstruct the view of dwelling from the roadway. All previous construction specifications shall apply.
6. No buildings of a temporary structure, garages, tents, barns or outbuildings shall be used for residential occupancy.
7. No buildings shall be constructed or located nearer than 150 feet from the center of Pastoral Drive nor nearer than 25 feet to any side lot line as shown on the above-described plat without the express written consent of the DEVELOPER.
8. The exterior on all units and other structures must be completed within one (1) year after the construction of any structure shall have been commenced, except where such completion is impossible or results in great hardship to the OWNER or builder due to strikes, fires, national emergency or natural calamities.
9. All dwellings shall be substantially complete in all respects before occupancy, and all exteriors completed within 12 months of the start of construction. No specific time limit is placed on each lot sold from the date of sale for construction of a dwelling to begin. However, OWNERS within the subdivision shall maintain the lots by keeping grass and brush cut.
10. No lot in HIGHPOINT FARMS may be further subdivided in any manner that creates an additional lot.
11. Satellite dish locations other than behind the primary residence must be approved in writing by the DEVELOPER in the procedure set forth in Paragraph \_\_\_\_\_. It may be further required that they be concealed by fencing or landscaping. This provision does not apply to mini-dishes.



12. No wire or metal fencing shall be erected on any lot from the rear corner of the dwelling erected thereon to the front of the lot. Wooden fencing shall be permitted from the rear corner of the dwelling to the front of the lot, provided however that such wooden fencing shall not exceed 5 feet in height.

13. Pastoral Drive is a private roadway for vehicular traffic only. Accordingly, random utilization of the roadway for recreational purposes such as ATVs, four wheelers, go carts, motorcycles, mini bikes or operating any motorized vehicle in an unsafe, dangerous, loud or annoying manner is prohibited.

14. An easement of ten (10) feet is reserved from each side, front and rear lot line of each lot in HIGHPOINT FARMS. This easement will apply to all within lots and shall strictly prohibit the placing of permanent fixtures within ten (10) feet of these property boundaries without the express written consent of the DEVELOPER. This easement is to be used for installation and maintenance of common utilities and water drainage. The roadway easement and right-of-way is reserved for and shall also benefit any utility company or municipality providing utility services in the subdivision for purposes of installation, use, and maintenance of such utility.

15. Any buses, transfer tractors and/or transfer trailers, boats, travel trailers and motor homes shall remain in the rear of the dwelling. The parking of same along the "Right of Way" is prohibited.

16. No junk or salvage automobiles or equipment are allowed on property at any time. No inoperable vehicles or vehicles without current license plates shall be exposed to public view from the street.

17. Dog kennels and dog houses shall be kept and maintained in the rear of dwelling and obscured from view.

18. No commercial operations, business operations, manufacture or production activities shall be permitted on any lot. The provisions of this item shall not be construed to prohibit the making of handcrafted items for occasional sale. Business and professional owners may use their residence as an ancillary facility to an office established elsewhere so long as such use does not cause incremental traffic within Highpoint Farms by the general public. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause danger, embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants, animals, device or thing of any sort whose numbers, normal activities or existence is in any way noxious, dangerous, unsightly or unpleasant that may diminish or destroy the enjoyment of other property in the neighborhood by the OWNERS hereof. Swine, goats, cattle, poultry, fowl or exotic animals are not permitted. Horses are acceptable, provided however that numbers do not exceed two (2) animals per acre of fenced pasture. Household pets such as cats and dogs must be maintained and controlled in such a manner so as not to be an annoyance, hindrance or nuisance to others.

19. All driveways shall be gravel, asphalt, construction grade paving block, or pre-mix concrete.

20. All garbage and refuse receptacles shall be screened and obscured from view from the street.

21. The wanton discharge of firearms anywhere within the boundaries of Highpoint Farms is strictly prohibited.

22. Each lot OWNER shall maintain his lot and the exterior of all improvements thereon in good condition and repair to assure that no condition exists which diminishes the appearance of the property. The storage of rubbish, debris, junk, post construction building materials, or collectibles shall not be permitted on any lot unless kept within an enclosed area and out of view. OWNERS of vacant lots shall keep such lots mowed to a grass length not exceeding 6 inches and free and clear of debris or unsightly vegetation.

23. No lake front access easements shall be granted to parties not in fee ownership of a lake front lot.

24. All sewage disposal shall be by septic tank installed with the approval of the Department of Health and Environmental Control.

25. If the parties hereto, or any of their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in HIGHPOINT FARMS to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent him or them from so doing or to recover damages or other dues for such violating. Invalidity of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which remain in full force and effect.

COPY



26. The restrictions, covenants and standards contained herein are to run with the land and shall be binding on all parties and all persons claiming under the grantors until January 1, 2021, at which time said restrictions, covenants and standards shall automatically renew for an additional 25 year period unless the majority of all the lot OWNERS in HIGHPOINT FARMS shall agree in writing at least thirty (30) days before January 1, 2021, to terminate or modify said restrictions, covenants and standards. The restrictive covenants contained herein shall not be personal, but shall be considered to be appurtenant to the lots contained in HIGHPOINT FARMS, whether specifically set forth in deeds to the lots and parcels or not.

## HOME OWNER'S ASSOCIATION

### ROADWAY RIGHT OF WAY AGREEMENT REPAIR AND MAINTENANCE OF RIGHT-OF-WAY

27. The Highpoint Farms Home Owner's Association (Association) is hereby established with membership consisting of all lot OWNERS within HIGHPOINT FARMS who holds a fee or undivided fee interest in any lot in HIGHPOINT FARMS. Each lot shall represent one vote, and a simple majority shall be required for all votes. The Association shall have the duty of maintaining all common grounds within HIGHPOINT FARMS including entrance way, street lights, subdivision sign and its surrounding area. Additionally, all OWNERS utilizing the 50 ft. "Right-of-Way" along which runs the private roadway (Pastorale Drive) shall bear all expenses incurred in maintaining the 50 ft. "Right-of-Way" and the private roadway. Both the 50 ft. "Right-of-Way" and the roadway (Pastorale Drive), shall hereinafter be referred to as the "Right-of-Way." In the event of dissolution of the Association, the lot OWNERS shall still remain responsible for such maintenance of the "Right-of-Way."

28. For maintenance and Association expenses beginning January 1, 2000 and ending December 31, 2000, the budget shall be One Thousand One Hundred Dollars (\$1100.00 ) resulting in an assessment to OWNERS for such year in an amount equal to the total budget divided by the total 11 parcels, which each OWNER agrees to pay by January 1, 2000.

29. The Association shall not be liable to the other lot OWNERS or to any other person for any error in judgement, or for doing or failure to do any matter pursuant to the terms of this agreement except in the case of intentional misconduct.

30. Each lot OWNER shall also be responsible for his prorata share of any street lighting, entrance signs or any other items which the Association so designates as property or items owned in common by the lot OWNERS of HIGHPOINT FARMS.

31. The Association shall meet at least one time per year to transact the business of the property OWNERS and maintenance of Pastorale Drive. Furthermore at that time the Association shall elect a President who will be the acting Executive Officer of the Association.

32. All lot OWNERS, by acceptance of their deed, acknowledge that they have reviewed all documents contained herein and the referenced surveys for HIGHPOINT FARMS.

33. Invalidity of any one of these covenants by judgment or Court Order shall in no wise effect any of the other provisions, which shall remain in full force and effect.

34. If street lighting is installed by the DEVELOPER, the cost and expense of such operation will be transferred to the ASSOCIATION at any time after one year from date of installation.

### ROADWAY RIGHT OF WAY AGREEMENT

WHEREAS, certain parcels in "HIGHPOINT FARMS," are in need of perpetual "Right-of-Way" rights affording adequate access; and it is essential to the value of the adjoining properties that the access roadbed along the "Right-of-Way" be maintained in a good and proper manner.

WHEREAS, the DEVELOPER has built and constructed a gravel based, asphalt covered roadbed "Pastorale Drive" along this "50 foot right-of-way easement", hereinafter referred to as "Right-of-Way."

WHEREAS, it is therefore mandated that all OWNERS of those parcels that utilize said "Right of Way" or "Pastorale Drive", or any portion thereof, shall share equally in the cost of maintaining the entire "Right-of-Way".

COPY



NOW, THEREFORE, the "Right-of-Way" same being a perpetual ROADWAY RIGHT-OF-WAY appurtenant is hereby established across, over and through that portion of property described on said plat as a "50 foot right-of-way easement" for the uninterrupted purpose of ingress to and egress from Parcels 4, 5, 6, 7, 8, 9, 10, & 11, and further provide for the construction, maintenance and repair (including reconstruction) of the Roadbed and all utilities that serve OWNERS of lots in HIGHPOINT FARMS.

The "Right-of-Way" shall burden the land it passes across, over and through and shall benefit and run with these parcels.

The "Right-of-Way" shall also benefit any utility company or municipality providing utility services in the vicinity where it is located.

### REPAIR AND MAINTENANCE OF RIGHT OF WAY

35. "Pastorale Drive", shall be built and covered with stone and asphalt by the DEVELOPER for use as a vehicular road and shall be maintained in a good and useful condition by the Association.

36. All OWNERS in HIGHPOINT FARMS SECTION II must utilize the "Right of Way" for ingress and egress to their respective lots.

37. When repairs or improvements appear to be necessary, the Association may decide that the repairs or improvements are needed and undertake same anywhere along the "Right-of-Way" premises. All OWNERS hereby grant to one another and to the Association reasonable rights of passage over their respective land for the purpose of construction; maintenance and repair of "Pastorale Drive," utility lines, service lines or ditches along the "Right-of-Way."

38. The Association shall contract for all reasonable costs associated with the required work. However, all OWNERS shall share equally in such costs, regardless of who incurs them. The Association shall bill the OWNERS for their share of such costs. Such bill shall constitute an assessment from the ASSOCIATION. The OWNERS shall promptly pay the assessment rendered within thirty (30) days.

39. Provided he is current in his obligations to the Association, any OWNER of parcels so effected by this AGREEMENT shall be released from all personal liability for costs associated with the repair and maintenance of the "Right-of-Way" immediately upon the sale or other conveyance of his complete fee interest in the parcel owned by him that is benefitted by the "Right-of-Way."

40. OWNERS purchasing under a "CONTRACT FOR DEED" shall be considered in "Default" for failure to make reimbursements and/or pay such assessments as agreed. Remedies may be pursued as provided for in the "Default Provision" of the "Contract for Deed" or any other remedy provided by law.

41. The OWNERS so affected by this "Right-of-Way" shall work together to coordinate their improvements, repair and maintenance activities so as to make these activities as economical as possible. The Association shall provide all OWNERS with reasonable notice before undertaking any repairs or maintenance.

42. Any damage to the "Right-of-Way" Premises caused by an OWNER, his guests, invites or contractors working on the OWNERS behalf, shall promptly be repaired by the OWNER at his sole expense. Any damage caused by the installation, maintenance, or failure of an OWNERS water supply line shall be paid for in its entirety by that OWNER. If any OWNER fails to promptly repair damage to the "Right-of-Way" so caused by him or his guests, invites, or contractors the Association may make such repairs and the cost of doing so shall be the sole responsibility of the OWNER responsible for the damage, to be paid and collected as set forth in Paragraph \_\_\_ below. It shall be the responsibility of all OWNERS installing water lines along the Right-of-Way to place a metal "tracker" line along with their water line to aid in marking it's location. Should a OWNER fail to follow this procedure, then that OWNER shall bear the full cost of repairing the roadway and replacing their damaged water line in the event damage occurs during installation of other utility lines.

43. If any OWNER, or his successors and assigns, shall fail to pay any assessment tendered to that OWNER by the Association within thirty (30) days after receipt thereof, the amount of such statement, together with interest thereon at the maximum legal rate, plus attorneys' fees for collection, shall automatically become a continuing lien upon the lot of the OWNER so billed, which lien shall be superior to all claims to such lot except purchase money or first mortgages, as well as being an enforceable personal obligation of the OWNER. The Association incurring an expense which remains unpaid may, upon failure of the OWNER to pay his share, record notice of its claim of lien against such lot and thereafter pursue a judicial action to foreclose said lien, subject only to any purchase money or first mortgage, in any manner now or in the future permitted by law or equity with respect to mortgage liens. Proceeds received from such a sale shall be distributed first to pay the lien being foreclosed upon, plus all costs and expenses, interest and attorneys' fees, and any surplus shall be distributed in accordance with the priorities established by applicable law. The Association may, in addition to, or instead of foreclosure, obtain a personal judgement against the OWNER.

## ASSIGNMENT OF RIGHTS

All rights hereunder granted shall not be further assignable by such OWNER except as an appurtenance to and in conjunction with the sale of their parcel.

## AMENDMENT

The "Right-of-Way," rights and responsibilities set forth in this instrument shall be perpetual and shall run with the land. The provisions of this instrument may be amended, but only with the consent of all OWNERS inclusive.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 1 day of July 1999.

IN THE PRESENCE OF:

WITNESS

WITNESS

West Mountain Development Corporation, Inc.

By: R. Steve Metcalf, President

By: William P. Brown, Secretary

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

) PROBATE  
)

PERSONALLY appeared before me, the undersigned witness, who, being duly sworn, deposes and states that he saw the within named West Mountain Development Corporation, Inc., by its duly-authorized officers, sign, seal and as its act and deed deliver the foregoing Land Use Restrictions, Protective Covenants and Building Standards and that he with the other witness subscribed above witnessed the same.

SWORN to before me this 1 day  
of July 1999.

WITNESS

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires May 21, 2002