

DECLARATION

Of Road Maintenance Lien Agreement

This Agreement is made and entered into on the date shown on the signature page at the end hereof, by and between the Hickory Cove Property Owners Association, Inc. and the undersigned property owner ("the Lot Owner"), being the owner of a lot or lots within or nearby to the Hickory Cove Subdivision, Moneta, Bedford County, Virginia (the "Lot" or "lots").

WHEREAS the parties hereto are owners of real property lots located within or near the Hickory Cove Subdivision, Lakes Magisterial District, Bedford county, Virginia, Sections I, 2 and 3 of which are more fully described on three (3) plats Of surveys made by Erskine W. Proffitt, C.L.S. which plats are entitled: "Plat of Survey Showing Section 1 Hickory Cove--" dated July 6, 1964; "Plat of Survey Showing Section 2 Hickory Cove--" dated September 16, 1965; and "Plat Showing Section 3 Hickory Cove--" dated May 7, 1966, recorded in the Bedford County Clerk's office in Plat book 11, at pages 9, 53 and 95, respectively; and

WHEREAS there are two privately maintained roads partly within Hickory Cove Subdivision and nearby, currently named "Hickory Cove Lane" and "Barn Hill Lane" (hereinafter, "the Roadways", being paved roadways with a 50-foot overall width, connecting the Hickory Cove Subdivision and adjacent areas to Virginia Secondary Highway 654, as shown on that certain plat of survey entitled "Plat Showing a 50-foot Right of Way—" dated December 4, 1963, made by Erskine W. Proffitt, C.L.S., recorded in Plat Book 10, page 141; and

WHEREAS without prejudice to their efforts to require the Developer of the Hickory Cove Subdivision to maintain said roadways, and to have said roadways taken into the State or County Road systems by qualifying for public maintenance, the undersigned Lot Owners wish to provide for the continued upkeep, safety and maintenance of Hickory Cove Lane and Barn Hill Lane; and

WHEREAS the property owners in the Hickory Cove Subdivision area have formed the Hickory Cove Property Owners Association, Inc. ("the Association"), a non-stock, not-for-profit corporation chartered under the laws of the Commonwealth of Virginia for the purpose of effecting the maintenance of the roadways, and the Association has assumed and discharged this responsibility for several years;

NOW, THEREFORE the undersigned join as Declarants and consent to the recordation of this Declaration as to each lot shown on the signature page(s), under the following terms and conditions:

ARTICLE I -- Maintenance Assessments

1.01. Purpose of assessments: The Association shall have the power, under rules provided in its by-laws and consistent with this Declaration, to levy assessments which shall be used for the

purpose of repair, maintenance, upkeep, improvement, enhancement and replacement of the Roadways and to provide for snow removal. The Roadways as shown upon the hereinabove mentioned plats shall be maintained in a good and passable condition so as to permit unobstructed safe vehicular traffic as a means of ingress and regress of the various lots within the Hickory Cove Subdivision area to Virginia State Route 654. Maintenance shall consist of snow removal, grass cutting, grading, spreading gravel, repairing drainage. Maintenance of signs, paving and other tasks deemed necessary to keep the Roadways in a safe and passable condition.

1.02. Basis and Maximum of Annual Assessments: The annual assessments shall be made on the basis of a fiscal year as may be adopted from time to time by the Association, which, at the date of this Declaration is an annual fiscal year beginning January 1st and ending December 31st with payments due on September 1st of the then current year. For each fiscal year thereafter, the maximum annual assessment may be increased by up to 8% per year of the prior year's annual assessment without a vote of the membership by the Board of Directors of the Association, which may fix such annual increase after due consideration of current maintenance costs and the needs of the Association. Any increase requested by the Board of Directors in the usual annual assessment above an annual 8% increase over the prior fiscal years assessment must be approved by the Voting Members of the Association as set forth in the By-Laws of the Association. For the fiscal years starting September 1, 1993, the Board of Directors recommended, and the Voting members approved, a two tier assessment system wherein developed properties, i.e. a lot with a permanent residence building will be assessed 100% of the base annual assessment. An undeveloped lot will be assessed at 50% of the base annual assessment. The status of a lot at the start of a fiscal year will determine the amount of the assessment on that particular lot. The base Assessment starting September 1, 1993 was reduced from \$220 to \$200 as recommended by the Board of Directors and approved by the Voting members in a meeting on May 29, 1993. Notwithstanding, the 8% potential yearly increase policy described above continues in effect.

1.03. Special Assessments for Capitol Improvements: In addition to the annual assessment authorized above, the Association may levy in any assessment year, a special assessment or assessments applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Roadways, including the cost of financing such activities, provided that any such special assessment shall have the consent of the Voting Members of the Association as provided in the By-Laws of the Association.

1.04. Notice: Written notice of any meeting of Voting Members called for the purpose of taking any action with respect to Annual or Special Assessments as authorized under Sections 1.02 or 1.03 shall be sent by mail, e-mail, personal delivery or messenger to all Voting Members in advance of the meeting as provided in the Associations By-Laws and the code of Virginia.

1.05. Commencement of Annual Assessments And Due Dates: The annual assessments provided for herein shall commence as to all lots on the 1st day of September, 1993. The Board

of Directors shall fix the amount of the annual assessment against each lot as provided in the By-Laws of the Association. Written notice of the annual assessment shall be sent to every owner subject thereto. If the Board of Directors acts to fix the annual assessment at least thirty (30) days prior to commencement of a fiscal year, such annual assessment shall be due on the first day of the fiscal year of which it pertains unless the Board of Directors shall specify a later date on which payment is due. If the Board of Directors fixes the annual assessment for a fiscal year less than thirty (30) days prior to the commencement of a fiscal year to which the assessment pertains or after that year has begun payment shall be due thirty (30) days after the Board of Directors' action, or on such later date as the Board of Directors may establish.

1.06. Creation of the Lien and Personal Obligation of Assessments: Each undersigned Lot Owner hereby Declares and covenants, and succeeding purchasers of each such Lot are deemed to covenant and agree, to pay the Association: (1) annual assessments, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as herein provided. The annual and special assessments, together with interest, cost of collection, and reasonable attorney's fees, shall be a charge upon the land and shall be a continuing lien upon the Lot against which each such assessment is made in the manner as herein provided. Each such assessment, together with such interest, costs and reasonable Attorney's fees, shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment falls due. Such personal obligation shall not pass to his successors in title unless expressly assumed by them.

1.07. Effect of Non-payment of Assessments: Remedies of the Association: Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 15 days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate of interest on judgments provided by law, and the Association may bring an action at law against the owner personally obligated for the same, or foreclose the lien against the Lot, and interest, costs, court costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. All remedies provided by the Code of Virginia may be employed to enforce the lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Roadways or abandonment of his Lot.

1.08. Lien for Payment of Assessments and Subordination of Lien to First and Second Lien Deed of Trust: There shall be a continuing lien on each of the individual Lots in order to secure payment of any of the assessments provided under this Declaration, but such lien shall at all times be subject and subordinate to any first or second mortgage or deeds of trust placed on the Lot at any time. However, at such time as the Association places to record in the Clerk's office of the Circuit Court of Bedford county, Virginia, a notice of delinquency as to any particular Lot on a form prescribed by the Board of Directors, then, from the time of recordation of said notice of lien of such delinquent assessments in the amount stated in such notice shall be a lien prior to any subsequently recorded first or second mortgages or deeds of trust in the same manners as the lien of a docketed judgment in the State of Virginia.

The hereinafter signed Lot owners agree that the obligation of this Declaration to which they

subscribe shall be a covenant running with the real estate which they own, thereby requiring all future owners of their particular Lots to abide by its terms and be subject to the provisions hereof.

The lien of assessments provided for herein, whether or not notice has been placed on record as above provided, may be foreclosed at law by a Bill in Equity in the same manner as provided for the foreclosure of mortgages, vendor's liens, and liens of a similar nature. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and delinquency, if any, due on a particular Lot.

1.09. Records and Receipts: The Association shall keep and maintain detailed, accurate records in chronological order of the receipts and expenditures specifying and itemizing the expenses incurred. Such records shall be available for examination by members and others with an interest such as encumbrances or prospective lenders at convenient hours of weekdays upon reasonable notice. The person or entity keeping such records may be paid such reasonable compensation by the Association as may be determined by the Board of directors of the Association.

1.10. Reports and Disclosure Packets: The Association shall upon request by any Voting Member promptly prepare a report or disclosure packet in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid, along with other information as may be required by the Code of Virginia. A reasonable charge may be made by the Board of Directors for the issuance of these reports or disclosure packets. Such reports or disclosure packets shall be evidence of payment of any assessment therein stated to have been paid, as provided by the Code of Virginia.

ARTICLE II -- Effectiveness

2.01. Minimum Participation: The signature by any Lot owner on a copy of this Declaration shall NOT be effective, and shall not create any lien, unless and until owners of at least twenty eight (28) Lots have signed. Each Lot Owner may sign a separate counterpart copy of this Declaration. When and if Owners of at least 28 Lots have signed copies of this Declaration, the Declaration shall be effective if the Voting Member Status provisions of Par. 2.02 hereof shall be satisfied. As of this update, Owners of 50 Lots have signed and the criteria of Par. 2.02 satisfied therefore, Declarations signed henceforth will immediately be put into effect.

2.02. Voting Member Status: The signature by any Lot Owner on a copy of this Declaration shall NOT be effective, and shall not create a lien, unless the Association shall take action at a duly noticed meeting to approve amendment of its Articles of Incorporation to create the category of Voting Members, which shall include all Lot Owners who have signed a copy of the Declaration. When and if the Association shall approve such a revision of its Articles of Incorporation, this Declaration shall be effective if the Minimum Participation provision of Par. 2.01 hereof is satisfied.

2.03. Recordation and Filing: If owners of fewer than twenty eight (28) Lots sign copies of this Declaration, it shall not be filed or recorded in any fashion by the Association. If the Association has not taken action at a duly noticed meeting to amend its Articles of Incorporation as set forth in Par. 2.02 hereof, this Declaration shall not be filed or recorded in any fashion by the Association. If Owners of twenty eight (28) or more Lots do sign copies of this Declaration, and if the Association has taken action to effect the creation of a class of Voting Members in which all signers of the Declaration shall be members, the Association shall cause this Declaration to be properly filed and recorded with the land records of Bedford County, Virginia. Thereafter, the revised Articles of Incorporation shall be filed with the corporate Commission of Virginia. As of this update, the requisites of Par. 2.03 have been accomplished.

ACCEPTED this _____, 20__ by
Hickory Cove Property Owners Association, Inc.

by _____
President

and
by _____
Secretary

COMMONWEALTH OF VIRGINIA
COUNTY OF BEDFORD to wit:

The above signature on this copy of the Declaration of Road Maintenance Lien Agreement was acknowledged before me this _____ day of _____, 20__, by

_____, and

_____, who identified him/herself to me.

Notary Public

My commission expires the ____ day of _____, ____.

SIGNATURES:

I hereby accept the terms of the foregoing Declaration of Road Maintenance Agreement and Lien, and authorize its recordation in the land records of Bedford County, Virginia.

Signature PRINT NAME:

Signature PRINT NAME:

Signature PRINT NAME:

Owners of Lot No. _____, Section No. _____ Subdivision _____

Tax Map No. _____

Street Address: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF BEDFORD to wit:

The above signature on this copy of the Declaration of Road Maintenance Lien Agreement was acknowledged before me this _____ day of _____, 20____, by

_____, _____, and

_____, who identified him/herself to me.

Notary Public

My commission expires the _____ day of _____, _____.