

BOOK 0287 PAGE 053

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

FOR

HIGHPOINT SUBDIVISION UNIT I

As shown by plat of record in plat cabinet 5,
slide 154-A in the Jessamine County Clerk's
Office.

WHEREAS, HIGH POINT DEVELOPMENT COMPANY, INC., (hereinafter called "Developer") having its principal office located at 2848 Union Mill Road, Nicholasville, Kentucky 40356, is the owner and developer of the property hereinafter described, and

WHEREAS, in the beneficial interests of the Developer and future owners of such real property, it is desirable to subject such real property to, and impose upon the present and future owners thereof, their heirs, personal representatives, successors and assigns, certain easements, restrictions, conditions, limitations, reservations, obligations and covenants, in order to assure the beneficial, harmonious and attractive development, improvement, and maintenance of the aforesaid real property, in order to cause the construction of residences and improvements to have an exterior scale, design quality, color and appearance which will be harmonious with other residences and the golf course and enhance the aesthetic appearance and value of the lots and residences; and prevent certain uses thereof which tend to diminish or be detrimental to the valuable and enjoyable use, development and maintenance of said lots, and

WHEREAS, the Developer desires to reserve for itself, and its successors and assigns, the sole discretion to review and approve certain aspects of the plans and specifications for the improvement of the lots, alterations to such improvements, and certain uses to be permitted or prohibited upon said lots, all as set forth more specifically hereinafter in order to accomplish the above described purposes,

NOW, THEREFORE, Developer does hereby make, constitute and establish the following covenants, conditions and restrictions (collectively the "restrictions") as to the ownership, development, use and occupancy of all lots in Highpoint Subdivision Unit I, Jessamine County, Kentucky (herein referred to as the "Subdivision" or the "Property"), as shown by the plat which appears of record in Plat Cabinet 5, Slide 154-A, in the Jessamine County Court Clerk's Office, as may be amended hereafter by Developer from time to time. In addition to all covenants, conditions and restrictions described herein, the Property and Subdivision and all lots therein and the owners thereof are also hereby made subject to and agree to abide by all notes and additional covenants, conditions and restrictions

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appearing on the above referenced plat of the Property and Subdivision as may be amended from time to time by Developer. Developer further declares that the Property, the Subdivision and all lots therein shall be held, sold and conveyed subject to all of said restrictions. The rights and obligations created as described herein shall affect only Unit I of Highpoint Subdivision and shall have no effect on any other property now or hereafter owned by High Point Development Company, Inc. unless such property is specifically made subject hereto by a separate recorded declaration, in which any such other property and the Property covered hereby shall be treated as a single subdivision unit.

I. APPROVAL OF PLANS

1.01 Procedure and Content: No improvement, change, construction, addition, excavation, landscaping, tree removal or other work or action shall commence on any lot until plans and specifications for the same shall have first been approved in writing by the Developer or by any person, committee, or association to whom it may assign the right. Approval shall be requested by submission of two sets of plans and specifications, (one set to remain in the possession of the Developer, the other to be signed and returned to lot owner), showing at least the following: (1) existing and proposed land contours and grades, (2) all buildings, access drives, and other improvements and improved areas, and the locations thereof on the site; (3) rear, front and side elevations and floor plans, (4) color of all exterior trim, brick, roof and other components, (5) all landscaping materials and locations including existing and proposed trees, planting areas and exterior ornamentation, (6) exterior lighting plans, (7) walls and fences, (8) patios, decks, pools and porches, (9) parking areas, (10) mailboxes, (11) samples of materials to be used to the extent requested by the Developer, and (12) such other information, data and drawings as may be reasonably requested by the Developer. Lot owners may be required to pay a reasonable fee for review of such plans by the Developer.

1.02 Basis of Approval: Approval shall be based, among other things, upon conformity and harmony of the proposed plans and specifications with the site and natural features thereon, other structures in the subdivision, the effect of the location and use of improvements on neighboring property, and conformity of the plans and specifications to the purpose and general intent of these restrictions.

The golf course is a visual asset to lot owners and the views of the golf course from lots other than the one for which plans are being reviewed will be considered in the plan review process. The view from the golf course to the lot will also be considered in the plan review process.

1.03 Failure to Approve or Disapprove: If the Developer fails either to approve or disapprove such plans and specifications

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the case of a one and one-half story structure; or less than 1,200 square feet for each floor of a two-story structure, exclusive of basements, attics, carports, garages, porches, and terraces, even though such structure is under the same roof. For each dwelling, there shall be attached or as part of a basement a two-car garage of identical construction as the dwelling and entrance to the garage must be from either the side or rear yard. No roof shall be less than 5/12 pitch unless approved by Developer. The existing homeplace on Lot 15 is exempt from the requirements imposed by this Section 2.03, but shall not be changed in any way without Developer's written consent. No roof shall be less than 5/12 pitch unless approved by Developer. The Developer may approve other types of designs containing a minimum of 1,850 Sq.Ft. of living area) provided the living area as defined in this paragraph is substantially similar to the requirements herein specified.

2.04 Completion of Construction: All lot owners shall complete residential construction within eighteen (18) months from date construction commences. The approval granted to plans and specifications shall be valid and effective only if construction is commenced within one (1) year from the time of said approval. If construction is not commenced within one (1) year from the time of such approval, no building shall be erected, placed, altered or permitted to remain upon such lot unless the Developer or its representative agrees in writing to extend said period of one (1) year. The Developer hereby expressly reserves the right to extend the time periods above.

2.05 Construction of Driveways and Headwalls: All driveways constructed on any lot in said subdivision shall be of Portland Cement concrete or asphalt and not less than 9' in width at all points. All driveway entrances, unless at the crest of a hill, shall have at least a 15" culvert under them with a masonry headwall. All driveway and headwall plans and materials must be approved by Developer and the driveways and headwalls must be completed within sixty (60) days of occupancy. Headwalls shall be faced with materials approved by Developer.

2.06 Drainage and Grading: No drainage ditches, cuts, swales, streams, impoundments, mounds, dams or other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be destroyed, altered or modified by or at the direction or with the consent of any lot owner without the prior written consent of the Developer. In the event of any destruction, alteration, modification or improvement made or occurring without such prior consent of the Developer, its representative may have the right to enter upon the property and lots to remedy or repair such destruction, alteration, modification or improvement without being guilty of trespass and without liability to any owner with respect to the same or the consequences thereof. Whenever, because of construction of improvements on a lot or for some other reason,

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silt would run off of a lot onto any adjacent property or golf course easement, the owner of such a lot shall be obligated to provide a means of siltation control to prevent silt from running off of such lot onto such adjacent property.

2.07 Septic Drainage Systems: All property owners shall be responsible for installing septic tank and drainage fields for any dwelling that will comply with Jessamine County and State of Kentucky Health Department regulations. The owner(s) of each lot shall have the right to construct sewer lateral lines upon the portion of the Golf Course Easement that lies within each lot in such locations as approved by the Developer or its assignees, which approval shall not be unreasonably withheld, provided said lines do not interfere with the operation of the golf course. If maintenance is required of said lines, the owner(s) of each lot shall complete said maintenance in an expeditiously and good workmanlike manner so as not to unreasonably interfere with the operation of the golf course and to return the disturbed area back to its original condition.

2.08 Underground Utilities: Lot owners shall have the responsibility to preserve and protect underground utilities. Except as otherwise specifically provided herein, no utilities may be above ground, including but not limited to electric, telephone and cable T.V.

2.09 Landscaping: As construction on each lot is completed and at the cost of the lot owners, sod shall be placed from the edge of the paved street to the building line of the main structure and across the entire width of the lot, and six feet (6') around the side and back of the structure, with the exception of sidewalks and driveways. The remaining rear yard shall be graded and seeded or sodded.

As construction of the improvements is completed on each lot, each lot shall be landscaped with two (2) shade trees in the front yard at the cost of the owner of each lot.

All ground cover shall not exceed ten (10) inches in height at any time. In the event the owner of any lot fails to keep and maintain the lot in a good condition, free of trash or weeds and grass over ten (10) inches in height, the Developer shall have the right to clean, mow and maintain the said lot and charge the owner for its cost.

Landscaping shall be completed within sixty (60) days of occupancy or in the case of a non-occupied house within sixty (60) days from when the main electric hook-up is made. No tree shall be destroyed or removed from any lot unless approved by the Developer. For every tree that is removed the Developer may require the lot owner to plant two trees. There shall be no artificial surfaces on lawns such as gravel, astro turf, and the like. All lawns shall be

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emergency situations or for testing thereof. No exterior laundry or clothes lines are permitted. No holding tanks, gas or other tanks are permitted, except those completely underground and approved by the Developer.

IV. GENERAL RESTRICTIONS

4.01 Animals: No livestock shall be permitted on any lot.

No animals, birds, insects, or poultry of any kind shall be raised, bred, or kept on any lot except dogs, cats and other household pets which are kept for domestic purposes only, and not kept, bred, or maintained for any commercial purpose. No more than two dogs and two cats may be kept on any lot except when such dogs or cats in excess of such numbers are less than three months of age.

No kennels may be erected on any lot. No pets shall be allowed to run free in the subdivision. All pets must be kept on a leash and not be allowed to stray from the non-golf course easement area of any lot unless under direct control, so as not to create damage or be a nuisance to other property owners or to the golf course or players. Barking and howling dogs will not be allowed to remain in the subdivision if they become a nuisance to any owners or golfers.

4.02 Trucks/Recreational Vehicles: No owner is permitted to keep any commercial trucks, boats, recreational vehicles or the like on the street or where they may be viewed by his neighbors or seen from the street or golf course. No inoperable vehicle or commercial trucks, boats, recreational vehicles or the like shall be parked on any street in the subdivision for a period in excess of 24 hours. No mechanic or repair work on any vehicles on any lot is permitted, except periodic minor maintenance work on vehicles while in garages.

4.03 Temporary or Permanent Mobile Homes: There shall not be erected, placed, altered, or permitted to remain on any lot in said subdivision any mobile home, trailer, tent, shack, barn, garage or outbuildings of any kind, temporary or permanent, nor may any homeowner be allowed to use such as dwellings either temporarily or permanently, with the only exception being for golf course usage and related activities.

4.04 Fences: To maintain the open look and feel of the subdivision and to protect the views, there will be no fences of any kind anywhere on any lot within the subdivision except the existing 4-board fence around the perimeter of the subdivision. Its regular and continued maintenance shall be the responsibility of the Developer. Provided, however, any lot owner may request permission from Developer to construct a wood, wrought iron fence or other Developer approved fence not more than 4 feet in height behind any house, no wider than the width of the house and not closer than 50 feet from golf course easement.

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4.05 Mailboxes and Street Numbers: In order to create a look of uniformity throughout the Development all U.S. mail boxes and newspaper boxes will be identical and of wood post and metal box construction, with metal numbers, approved by the Developer. Developer will furnish design plans or supplier list or may build for owner at owner's expense.

4.06 Antennas: One dish for reception of satellite television signals may be erected, used and maintained on each lot with appropriate screening or camouflage to shield it from view, subject to the prior written approval of the Developer. No antennas shall be allowed.

4.07 Signs: No signs whatsoever shall be erected or maintained on the property or any lots with the exception of those of Developer or as required for directions, operation or advertisement of the golf course. Should an owner put his property up for sale, one real estate sign may be permitted on the front of the property. However, no realty signs are permitted at the entrance to the subdivision. Said real estate signs must be approved by the Developer and may not exceed 2' x 2' in overall dimensions. All signs shall be professionally prepared.

4.08 Business/Home Occupations: Except for golf course operations, no trade or business shall be conducted on any lot at anytime. Provided, however, a lot owner may have a home office, provided no advertising of same is done on lot and provided that said home office does not create any business traffic whatsoever. No noxious or offensive activity shall be carried on upon any lot at any time, no shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4.09 Hobbies: Hobbies or activities that tend to detract from the aesthetic character of the lots, and improvements used in connection with such hobbies or activities, shall not be permitted unless carried out or conducted as directed by the Developer. This paragraph covers, but is not limited to, such activities as automotive and boat repair and sport activities involving equipment placed on the lots.

4.10 Storage Tanks and Pools: No holding tanks of any sort will be permitted without written permission from Developer. Location of holding tanks must be on the site plan. Above ground swimming pools are not permitted.

4.11 Firearms: There shall be no hunting, discharging of firearms, B.B. guns, bows, crossbows, or other projectile weapons within or upon any lot or golf course easement, except by maintenance and security personnel in the performance of their duties.

4.12 Gardens: No vegetable gardens shall be planted or extended nearer the street than the rear yard of any residence, and in no

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event shall be nearer than 25' from any adjoining lot or golf course easement.

V. THE HIGH POINT GOLF COURSE

The golf course is a major attraction and integral part of The Highpoint Subdivision. It will be maintained and operated by an entity separate from the lot owners. Although the following items are under the direct control of the golf course management, these provisions have an affect on all lot owners and can be enforced, as other restrictions, by the Homeowners Association and the owner of the Golf Course Easement.

5.01 Easements: An easement (herein sometimes referred to as the "Golf Course Easement") is hereby reserved in favor of Developer, its successors and assigns, as described in the recorded plat of the Property for the purposes of constructing, maintaining, operating and repairing a golf course, electric poles and lines, all utilities, retention and drainage facilities, irrigation system, and all facilities related thereto, and the right is hereby reserved to enter upon said Property and all lots at any and all reasonable times for the purposes of installing, maintaining and repairing the same. This easement provision is perpetual and not subject to change without the prior written consent of the Developer or subsequent owner of the golf course easement.

Developer shall have the right to grade the Property as may be necessary for the construction and maintenance of a golf course, to install and maintain water lines, sewer lines, irrigation system, drainage ditches, ponds and wells, plant and maintain trees and shrubs, and erect and maintain shelters, restrooms, water fountains, maintenance buildings, clubhouse, pro shop, swimming pools, tennis courts and other improvements as may be necessary for the operation of a golf course and club.

The owner(s) of any lot(s) shall not place any tree, fence or any other structure or improvement on the Golf Course Easement without the prior written consent of the Developer or its assignees, and shall not in any way interfere with the operation and maintenance of the golf course thereon.

The owner(s) of any lot(s) shall not permit their guests or invitees to interfere with the operation of the golf course, nor shall owner(s) invitees or guests have any right or privilege to go upon said easement without the prior written consent of the Developer or its assignees, except as provided herein.

The Golf Course Easement shall perpetually remain in full force and effect and shall not terminate unless the golf course has ceased operation for ten (10) consecutive years, or unless Developer or its assignee earlier relinquishes the easement to all lot owners in writing, in which case each lot owner shall thereafter be

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responsible for all maintenance of the portion of the Golf Course Easement that lies within each owner's lot.

5.02 Interference with Play on Golf Course: Owners of all lots shall refrain at all times from any actions which would detract from the playing qualities of the golf course. During any golf tournament held at the golf course, owners of lots bordering fairways shall suspend all construction activity, lawn maintenance and all other abnormally noisy activities which may cause disturbance to the play on the golf course. In the event of a tournament, the Developer hereby reserves the right for The Highpoint Golf Club management to redirect the flow of traffic throughout the subdivision by designating one-way streets, allowing parking in one lane or whatever other means deemed necessary to assure access for players, homeowners and spectators.

5.03 Lake Usage and Control: All ponds, streams and lakes lie within the golf course easement. Developer reserves the right for it or The Highpoint Golf Course owner or operator to withdraw water from the ponds, streams and lake, or otherwise draw down the water level of the ponds, streams and lakes, to a level below their normal pool level for irrigation purposes or whatever purpose deemed necessary.

Rules and regulations regarding fishing and water usage shall be set and administered by the owner of the golf course easement.

5.04 Cooperation with Homeowner's Association: The golf course easement owner shall appoint a representative to attend all meetings of the Homeowner's Association in order to assure cooperation and harmony of purpose between the two organizations for the benefit of the entire Development.

VI. HOMEOWNER'S ASSOCIATION

The Highpoint Subdivision Homeowners Association, Inc. ("Association") shall be established by Developer subsequent to this Declaration.

6.01 Membership: Every owner of a lot in the Subdivision shall be a member of the Association, and by acceptance of a deed for any lot agrees to accept membership in, and does thereby become a member of the Association. Such owner and member shall abide by the Association's bylaws, rules and regulations, shall pay the assessments provided for, when due, and shall comply with decisions of the Association's Board of Directors. Developer and the owner of the golf course easement each can veto all actions of the Association.

6.02 Purpose of Association: The objects and purposes of the Association shall be set forth in its Articles of Incorporation and shall be to promote the social welfare and serve the common good

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prior written approval of the Developer as long as Developer owns a lot in the Subdivision or any non-Unit I property that is made a part of the Subdivision pursuant to the following procedure. In the event other property owned by Developer and adjoining the Subdivision is made a part of the Highpoint Subdivision, these voting requirements shall include the owners of the lots in any non-Unit I property and all references to "lots" herein shall include all lots in any other such unit of the Subdivision upon unilateral declaration by Developer on the plat of said property.

Section V shall not be altered or amended without the written consent of the owner of the golf course easement. No amendment may remove, revoke or modify any rights of the Developer or owner of the golf course easement without their written consent. Failure or delay of any owner or the owner of the golf course easement to demand or insist upon observance of any of the restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or a waiver of the right to seek enforcement of the restrictions.

7.04 Severability: Invalidatation of any one of these covenants by a judgment or court order shall not affect any other provisions, all of which shall remain in full force and effect.

7.05 Enforcement: Enforcement of these restrictions or any additional obligations legally imposed by the Association shall be by a proceeding in law or equity against any person or persons violating or attempting to violate any covenant either to restrain and correct violation or to recover damages or both. If the owners of such lots or any of them, or their heirs or assigns, shall violate any of the covenants hereinafter set out, it shall be lawful for the Developer, any owner of any lot situated in the subdivision or the owner of the golf course easement to prosecute any proceedings at law or in equity against the owner or other person or entity violating any of such restrictions, and either to prevent them from doing so or to recover damages from such violation, or both, as the law shall allow. In the event any person or entity files an action to enforce these restrictions, the prevailing party in such action shall be entitled to recover all attorney fees and costs incurred as a result of pursuing or defending such action.

7.06 Notices: Any notice required to be sent to any member or owner under the provisions of these restrictions shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

7.07 Solicitations: There shall be no solicitation of any type within the residential area of the subdivision except as may be expressly authorized by the Developer.

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7.08 Entry Onto Property: In addition to the rights of access to the properties required for the exercise of the easements hereinbefore granted, the Developer or his authorized representative may upon giving 48 hours prior notice to any owner (except in cases of emergency, in which event no prior notice shall be required), enter any of the lots at any reasonable times for the purpose of inspecting such lot(s) to ascertain whether the lot owner is in compliance with the terms and provisions hereof, or to determine whether measures are necessary or desirable to control or exterminate any vermin, insects, or other pests and for the purpose of taking such corrective measures as may be reasonably necessary. In case of an emergency, such right of entry shall be immediate, whether the owner or occupant of the lot is present at the time or not.

7.09 Mining: No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of any lot, nor shall any oil, natural gas, petroleum, asphalt or other mineral, of any kind be produced or extracted therefrom. Further, no commercial mining or quarrying activities of any type or nature whatsoever shall be permitted on any such lot, and there shall be no drilling of any type or nature whatsoever upon any lot. No water towers are permitted on any lot.

7.10 Interpretation: In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in these restrictions, the Developer shall have the right to appoint an attorney to interpret and construe the meaning of the uncertainty, which interpretation shall be binding on all parties.

7.11 Paragraph Headings: The headings are intended for convenience only and are not intended to be a part of these restrictions in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.

7.12 Waiver of Notice: Whenever any notice whatever is required to be given under the provision(s) of this instrument, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

The restrictions are hereby adopted for and imposed upon all lots in Unit I of Highpoint Subdivision as shown by plat of record in Plat Cabinet 5, Slide 154-A, Jessamine County Court Clerk's Office, effective January 1, 1992.

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DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
HIGHPOINT SUBDIVISION UNIT 2

WHEREAS, HIGH POINT DEVELOPMENT COMPANY, INC., (hereinafter called "Developer") having its principal office located at 687 Hill-N-Dale Road, Lexington, Kentucky 40503, is the owner and developer of the property known as Unit 2, of HighPoint Subdivision, as shown by plat of record in plat cabinet 8, slide 24 in the Jessamine County Clerk's Office, consisting of 12 residential building lots (the lots are herein referred to collectively as "Unit 2"); and

WHEREAS, Developer is the developer of the property known as Unit 1, of HighPoint Subdivision, as shown by plat of record in plat cabinet 5, Slide 154-A, as amended by plats of record in plat cabinet 5, slide 194-B and cabinet 7, slide 157-B, in the Jessamine County Clerk's Office, consisting of 15 lots (herein collectively "Unit 1"); and

WHEREAS, pursuant to the Declaration of Covenants, Conditions and Restrictions For HighPoint Subdivision Unit 1, (the "Declaration") of record in Deed Book 287, Page 51, Developer reserved the right to make Unit 2 a part of the HighPoint Subdivision and the right to subject Unit 2 to the terms and conditions of the Declaration by declaring same;

NOW, THEREFORE, Developer does hereby declare that the property known as Unit 2 HighPoint Subdivision and all individual lots therein are hereby subjected to the terms and conditions of the Declaration, the terms of which are hereby incorporated herein by reference the same as if set forth in full herein, effective upon the date of recording of this declaration in the Jessamine County Clerk's office. The Declaration is hereby adopted for and imposed upon all lots in Unit 2 of HighPoint Subdivision. Developer further declares that Unit 2 and all lots therein shall hereafter be held, sold and conveyed subject to the Declaration.

HIGH POINT DEVELOPMENT
COMPANY, INC.

BY: 
Secretary

STATE OF KENTUCKY
COUNTY OF FAYETTE

Subscribed and acknowledged before me by  of High Point Development Company, Inc. on this the 23rd day of June 1995.

My Commission Expires: 4/5/99


NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

STOLL, KERNON & PARK, LLP
201 East Main Street, Suite 1000
Lexington, Kentucky 40507
(606) 231-3000


BY: 
Dan M. Rose

ORDER TO RECORD

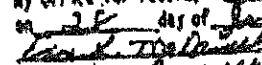
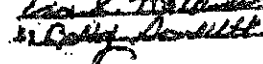
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EVA L. McDaniel
JESSAMINE COUNTY CLERK
BY:  D.C.

STATE OF KENTUCKY
SCT
JESSAMINE COUNTY

T. Eva L. McDaniel, Clerk of Jessamine County Court, hereby certify that the foregoing instrument has been filed in my office for record, on 23rd day of June 1995.
 Clerk
 D.C.