

DECLARATION OF AMENDED RESTRICTIONS AND PROTECTIVE COVENANTS
for
SUNDANCE MOUNTAIN SUBDIVISION

THIS DECLARATION OF AMENDED RESTRICTIONS AND PROTECTIVE COVENANTS for Sundance Mountain Subdivision is made this _____ day of _____, 2019, by **SUNDANCE MOUNTAIN SOUTH ASSOCIATION, INC.**, an incorporated property owners association (the “Association”), index as grantor.

P R E A M B L E

A. The Sundance Mountain Subdivision (the “Subdivision”) was established and dedicated by the following instruments:

B. Sundance Mountain South Association, Inc. is the property owners’ association of Sundance Mountain Subdivision.

C. The Owners of the Lots in the Subdivision (the “Owners”) have amended the existing restrictions and adopted additional protective covenants pursuant to § 55.1-1829 of the Code of Virginia (formerly § 55-515.1).

D. The Association wishes to record this Declaration containing the amended restrictions and protective covenants to replace the existing restrictions in their entirety.

NOW THEREFORE, the Association, pursuant to § 55.1-1829 of the Virginia Property Owners Association Act (formerly § 55-515.1), hereby amends and replaces the restrictions of Sundance Mountain Subdivision and declares that all of the property in the Subdivision shall be held, transferred, sold, conveyed, and occupied subject to the following restrictions, covenants, conditions, limitations, and easements which shall run with the real estate and shall be binding on and inure to the benefit of all present and future Owners thereof.

ARTICLE 1

Definitions

§ 1.1 “**Act**” shall mean and refer to the Virginia Property Owners’ Association Act (Virginia Code § 55.1-1800, et seq.; formerly § 55-508, et seq.).

§ 1.2 “**Board**” shall mean and refer to the board of directors of Sundance Mountain South Association, Inc.

§ 1.3 “**Common Area**” shall mean and refer to all property within the Subdivision other than Lots that the Declaration requires the Association to operate and maintain for the benefit of the Owners. Common Area includes without limitation, all roads in the Subdivision.

§ 1.4 “**Declaration**” shall mean and refer to this Declaration of Amended Restrictions and Protective Covenants for Sundance Mountain Subdivision.

§ 1.5 “**Lot**” shall mean and refer to the individually numbered plots of land shown upon the recorded subdivision plats of the Subdivision.

§ 1.6 “**Owner**” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, whether acquired by purchase, gift, foreclosure or otherwise, but excluding those persons or entities having an interest merely as security for the performance of an obligation. The address of an Owner for the purpose of notices required herein shall be the address on the tax records for the current year maintained by the Treasurer of Rockingham County, Virginia or Shenandoah County, Virginia, as applicable, unless an Owner notifies the Association of a different address in writing.

§ 1.7 “**Subdivision**” shall mean and refer to all the property dedicated to the Sundance Mountain Subdivision.

ARTICLE 2

General Use Restrictions

§ 2.1 All Lots shall be used only for residential purposes with only one (1) single family dwelling. No townhouse, duplex, mobile home, double-wide manufactured home, or house trailer shall be constructed or placed on any Lot. No trailer, basement, tent, shack, barn, or other outbuilding erected on any Lot shall be used at any time as a permanent residence, nor shall any residence of a temporary character be permitted.

§ 2.2 No dwelling shall be permitted on any Lot with any type of exterior finish except brick, stone, faux stucco, wood siding or vinyl siding, provided, however, that aluminum soffits, guttering, and fascia boards are permitted. Chimneys and exposed foundations shall be constructed or veneered with brick, stone, faux stucco or painted concrete.

§ 2.3 No sign of any kind shall be displayed to the public view on any Lot except:

- a) one (1) sign of not more than five (5) square feet advertising the Lot for sale or rent;
- b) signs used by the builder to advertise the property during construction or display required permits;
- c) no trespassing signs; and
- d) one (1) sign displaying the name and or address of the Owner or occupant of the Lot.

§ 2.4 No animals, livestock, or roosters of any kind shall be raised, bred, or kept on any Lot, except chickens, (maximum of twelve), dogs, cats, or other common household pets. No chickens, dogs, cats or other common household pets shall be kept, bred, or maintained for any commercial purpose. No more than three (3) dogs and three (3) cats are permitted on any Lot without the written consent of the Board. No dog shall be kept on any Lot that constitutes a nuisance to other Owners through the generation of noise, odor, or by other means. A dog may be deemed a nuisance if the Board receives more than three (3) complaints of nuisance from at least two (2) different Owners within seven (7) days.

§ 2.5 Whenever animals are permitted outside, they must be confined to the Lot. No animal may be kept on a chain or run and no animal shall be kept outside on a permanent basis. No outdoor structure shall be constructed, maintained, or used on any Lot in which more than one (1) dog is kept, except where such structures are in use at the time this Declaration is adopted. Dogs shall not be allowed to run free except on owner's lot(s).

§ 2.6 All Lots shall be kept at all times in a sanitary, healthful, attractive, and safe condition. For purposes of this section, "safe" means free of conditions and defects that would be likely to cause injury when using reasonable care to avoid injury. Natural features of the land shall not be considered unsafe conditions.

§ 2.7 No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall be kept in sanitary enclosed containers. All containers shall be appropriately screened from view from any street or road on which the Lot fronts.

§ 2.8 No motor vehicle shall be kept on any Lot unless it bears valid state license plates and a current inspection sticker; is kept within a structural enclosure; or is legitimately used for farm use. This restriction shall not be applicable to vehicles and equipment owned by the Association and used for maintenance and repair of the roads within the Subdivision.

§ 2.9 All dwellings shall have adequate off-street parking for at least two (2) vehicles.

§ 2.10 No bus, truck having more than two (2) axles, commercial equipment, commercial vehicle (including, but not limited to, any tractor trailer, or combination of tractor and trailer), or disabled or unlicensed vehicle, or any portion thereof may be parked or stored on any street or Lot except commercial equipment and vehicles temporarily located therein for the purpose of performing necessary construction or repairs. No stripped down or junk vehicles (licensed or unlicensed) or any sizable parts thereof may be parked on any street or Lot.

§ 2.11 No more than four unrelated persons may occupy any dwelling on any Lot. As used herein, “unrelated persons” shall mean persons not related by either blood or marriage.

§ 2.12 No noxious, offensive, or illegal use or activity shall be carried on upon any Lot, nor shall any practice be engaged in by the Owners, their family members, tenants, agents, guests, or assigns, that is an annoyance or nuisance to the neighborhood.

§ 2.13 No firearms shall be discharged on anywhere within this Subdivision, except that discharges for the purpose of sighting-in firearms will be allowed during the first two calendar weeks in September of each year between the hours of 9:00 a.m. and 6:00 p.m.

§ 2.14 No improvement which has been partially or totally destroyed by fire or other casualty shall remain in such condition for more than six (6) months from the date of such casualty, provided the Board may extend this period of time in unusual circumstances.

§ 2.15 No incinerator or other device for the burning of trash. Other than wood shall be permitted on any Lot or Common Area.

§ 2.16 No Lot or any portion of any Lot shall be used as an access way or right-of-way for ingress to or egress from any other Lot or any other property, excluding access between and for ingress to or egress from adjoining Lots having the same Owner, without the prior written consent of the Board. This provision does not apply to any access way or right-of-way shown on

any plat of the Subdivision; easements granted in writing prior to the recordation of this Declaration; or sewer easements as provided in § 2.17.

§ 2.17 Any Lot utilizing a shared septic system shall have an easement over, across, and through any other Lot or Common Area on which any portion of such septic system is located on the effective date of this Declaration. Such easement shall be for the use of the facilities within the easement as well as access to such facilities for maintenance and repair. Maintenance and repair of a shared septic system shall be shared equally by the Owners of the Lots using that system. In the event any Lot utilizing a shared septic system obtains service from a public sewage system or otherwise discontinues usage of the shared system, that Lot's easement shall be terminated and extinguished.

§ 2.18 No lot shall be subdivided into smaller lots, nor shall any fractional portion of any lot be sold or conveyed by the Owner thereof without the prior approval of the Board and County.

ARTICLE 3

Miscellaneous Provisions

§ 3.1 Except as otherwise provided in this Declaration, the Association shall be responsible for maintaining the Common Areas of the Subdivision. The Association shall have the power to impose assessments on each Lot for the cost of repairing and maintaining the Common Areas. Assessments shall be imposed in a manner consistent with the provisions of the Act.

§ 3.2 If any portion of the Common Areas is damaged by the negligence or willful misconduct of any Owner or an Owner's family members, tenants, agents, guests, or assigns, that Owner shall be responsible for repairing such damage. The Association may, at the discretion of the Board, make such repairs and recover the costs thereof from the responsible Owner.

§ 3.3 Any water drainage or detention system traversing or abutting any Lot shall be maintained by the Owner of that Lot unless the Board expressly agrees that the Association shall maintain such drainage or detention system.

§ 3.4 Neither the Association nor the Board shall be liable to any Owner or other person for any claim, liability, damage, or expense suffered or incurred by or threatened against an

Owner or other person arising out of or in any way related to the subject matter of any reviews, acceptances, inspections, permissions, consents, or required approvals which must be obtained from the Board, whether given, granted, or withheld.

§ 3.5 If any part of this Declaration is found to be invalid or unenforceable under applicable law, such part shall be ineffective only to the extent of such invalidity or unenforceability, without in any way affecting the remaining provisions of this Declaration.

§ 3.6 This Declaration may be amended by 60% of the Owners in good standing at the time of the vote.

ARTICLE 4

Validity and Enforcement

§ 4.1 The failure on the part of the Association, the Board, or any Owner to enforce any provision of this Declaration shall not be deemed a waiver of the right to do so thereafter for the same breach or a breach occurring prior or subsequent thereto.

§ 4.2 Enforcement of the provisions of this Declaration shall be by proceedings instituted by the Association, the Board or any Owner against any persons or entities violating or attempting to violate any provision hereof, either to restrain the violation or to recover damages for violations. In any such proceeding, an Owner found to have breached any provision of this Declaration shall be responsible for the cost of the enforcement proceedings, including the prevailing party's attorney fees.

CERTIFICATION

I, _____, President of the Sundance Mountain South Association, Inc. hereby certify that the requisite number of Owners of Lots in the Subdivision, being the Owners of at least two-thirds ($\frac{2}{3}$) of the Lots, have signed ratifications of this Declaration of Amended Restrictions and Protective Covenants.

, President,
Sundance Mountain South Association, Inc.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by _____, President of **Sundance Mountain South Association, Inc.**, on behalf of the Association.

My commission expires_____.

Notary registration no. _____.

Notary Public