

DECLARATION OF PROTECTIVE COVENANTS,
RESERVATIONS, RESTRICTIONS AND EASEMENTS
OF PRESIDENTIAL VIEW SUBDIVISION

WITNESS THIS DECLARATION OF PROTECTIVE COVENANTS, RESERVATIONS, RESTRICTIONS AND COMMON EASEMENTS, made this 12th day of March, 2003, by **S.R. Independence, Inc.**, a Maine corporation, with a place of business at Portland, Maine, hereinafter referred to as "Declarant."

WHEREAS, Declarant has acquired a certain lot or parcel of land situated off Duck Pond Road, in the City of Westbrook, County of Cumberland and State of Maine, by virtue of the following:

1. Deed from Scott Reaves recorded in the Cumberland County Registry of Deeds on March 9, 2001 in Book 16085, Page 214;
2. Deed from Phazer Land Trust and James E. Cummings recorded in said Registry of Deeds on March 9, 2001 in Book 16085, Page 212;
3. Deed from Evelyn S. Stilkey recorded in said Registry of Deeds on October 10, 2001 in Book 16826, Page 225; and

WHEREAS, Declarant is in the business of developing and selling real estate situated in said City of Westbrook, which is the above-referenced land acquired by said deed, which development is known as Presidential View Subdivision, and is more particularly described in a Plan entitled "Presidential View Subdivision" prepared for S.R. Independence, Inc. by R.P. Titcomb & Associates, dated July 19, 2001 and recorded in the Cumberland County Registry of Deeds in Plan Book 203, Page 59; and

WHEREAS, Declarant desires to provide for the improvement of the Subdivision in accordance with a harmonious plan for the relative location of residential structures, garages, rights-of-way, easements, roads, common areas, and general land use, all to assure the purchasers of lots in the Subdivision, their heirs and assigns, owning such lots, that the use, benefit and enjoyment of the individual lots, common amenities, facilities, easements and roads will not conflict with the harmonious plan; and

WHEREAS, the Declarant desires to create a residential area of the Subdivision providing for the greatest possible degree of health, safety, environmental beauty, and amenity for the property owners and inhabitants thereof, and to effect the foregoing purposes, desires to subject the property to protective covenants and common easements and to the provisions for a homeowners association for the administration and enforcement of same, the maintenance and improvement of certain common facilities, and the establishment, collection and disbursement of assessments, all as set forth hereinafter, each and all of which are for the benefit of the property and of each lot subject to the protective covenants and easements hereinafter set forth, maintaining and improving certain rights of way and other common facilities, and otherwise carrying out the functions of a homeowners association and the provisions and objectives of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the property shall be held, occupied, improved, transferred, sold, leased and conveyed subject to the protective covenants and restrictions, the reservations and exceptions, the common rights and easements, and the provisions of a homeowners association hereinafter set forth, all of which are declared to be in furtherance of a uniform scheme for the development of the property and that said protective covenants, reservations, common easements, and provisions for a homeowners association are intended to enhance and protect the value and desirability of the property as a whole, to mutually benefit each of the parcels located thereon, to create mutual equitable servitudes upon each of the parcels in favor for each and all other parcels therein and to create reciprocal rights and privities of contract and estate between all persons acquiring or owning any interest in any portion of the property including Declarant, and Declarant's grantees, successors, administrators, and assigns and shall be deemed to run with the land and be a burden and benefit to and enforceable by all such persons, including Declarant, and Declarant's grantees, successors, administrators, and assigns, and by the homeowners association.

ARTICLE I Definitions

The following words, shall, as used herein, have the following meanings, unless the context plainly requires otherwise:

- a. Road. All roads and ways as shown on the Subdivision Plan.
- b. Association. The homeowners association named "Presidential View Homeowners Association," which Declarant may organize as a nonprofit unincorporated association for the purpose of administering and enforcing the protective covenants and easements hereinafter set forth, maintaining and improving certain rights of way and other common facilities, including the detention basin and otherwise carrying out the functions of a homeowners association and the provisions and objectives of this Declaration. The Association shall have the power to assess lot owners for such common expenses deemed appropriate by the Association. Absent the creation of such Association, the lot owners shall have all powers and responsibilities hereunder granted or assumed by the Association.
- c. Declarant. S.R. Independence, Inc., as aforesaid, and any successor to all of Declarant's rights, title and interest in and to the property.
- d. Owner. The record owners, whether one or more persons or entities, of the fee simple title to any parcel, but not including Declarant.
- e. Lot or Parcel. Any one of the numbered lots within the property as shown upon the Plan, which may hereafter be conveyed by Declarant.

f. Plan. That Plan labeled “Presidential View Subdivision” prepared for S.R. Independence, Inc. dated July 19, 2001 by R.P. Titcomb & Associates, Inc., approved by the City of Westbrook Planning Board on November, 2002, and recorded in the Cumberland County Registry of Deeds on February 10, 2003 in Plan Book 203, Page 59.

g. Subdivision. Presidential View Subdivision as shown on the above-referenced Plan.

ARTICLE II Supplemental Declarations

Except for those provisions pertaining to the Department of Environmental Protection stormwater license, including the maintenance responsibilities for the detention ponds, which cannot be amended without prior Department of Environmental Protection approval, this Declaration may be amended from time to time by Supplemental Declarations duly executed by Declarant, or by the Presidential View Homeowners Association, pursuant to a vote of the owners in accordance with the Bylaws, if any, of the Presidential View Homeowners Association, and recorded in the Cumberland County Registry of Deeds. No such amendment shall render invalid any use of subdivision land within the property existing in accordance with this Declaration at the time of recording such Supplemental Declaration, and any such amendment shall be reasonably consistent with the uniform scheme of development established by this Declaration.

ARTICLE III Reservations and Easements

There is hereby excepted and reserved to the Declarant, for so long as it owns any portion of the numbered parcels, and thereafter to the Association the following:

a. Roads. A right of way for all purposes over, across and through the roads, together with the right to install, maintain utility poles and lines and water and sewer lines adjacent to, within or under the traveled portion of said roads. The Declarant specifically reserves any and all roads and ways shown on the plan and the right to convey the roads to the City of Westbrook.

b. Underground Utilities. Declarant reserves the right to grant easements for utility purposes to enter onto any lot within fifteen (15) feet of the road lot line for the purpose of constructing, reconstructing, installing, replacing, and maintaining an underground or an aboveground utility therein and to extend, connect to, and use in common any previously installed utility by the lot owner providing that promptly after such entry, the surface of the ground shall be restored to substantially the same condition as it was in prior to such entry.

c. Detention Basin Easement. The right of access to, and the responsibility of the maintenance of a certain Detention Basin. The Declarant also hereby grants an easement to the City of Westbrook to the Detention Basin area shown on said Plan. Said easement shall be utilized

to repair or maintain said detention basin during emergency situations. The determination as to emergency status shall be at the sole discretion of the City of Westbrook. All costs associated with said maintenance or repair of said Detention Basin, emergency or otherwise, shall be borne by the Declarant and subsequently by the Association.

d. Easement to Common Area. Declarant reserves an easement across the common area shown on the plan to construct a roadway to access other land of the Declarant located on the northerly side line of land now or formerly of Central Maine Power Company and to install any and all necessary or incidental utilities to benefit said other land of the Declarant. This reservation shall include the Declarant's right to tie in to any and all utilities that may be installed within the subdivision. This reservation shall not cause the Declarant to become a member of the Homeowner's Association.

e. Other. The right to exercise through the property any rights or powers hereinafter conferred upon the Association by an amended Declaration.

ARTICLE IV Common Rights and Easements

Each conveyance of a parcel shall be deemed to include as appurtenant to said parcel, subject to such reasonable regulations as may be established from time to time by the Association, the following:

a. Access. A right of way for all purposes over and along the road, in the subdivision, as said is shown on the Plan of the Subdivision, in common with Declarant and in common with the owners of the other parcels.

b. Common Open Space Areas. A right of reasonable use of the common areas for purposes of passive and active recreation, provided that no improvements shall be made except as authorized by the Planning Board of the City of Westbrook. The Association shall have the right to establish rules and regulations concerning the use of said Common Open Space Area.

c. Public Easement. The Declarant hereby acknowledges a public easement which shall allow the general public to utilize the trail system located in the Common Open Space Area as shown on the Plan. This public easement shall not include the detention ponds. The Association shall have the right to establish rules and regulations as to said use of trails to provide for the safety and welfare of the general public and the lot owners. The Association shall be responsible for the maintenance and repair of said trail system. If the Association fails to maintain or repair damage to the trail system, upon ninety (90) day, written notice to the Association, the City of Westbrook may undertake such maintenance or repair. The City of Westbrook may invoice the Association for services reasonably necessary for the maintenance and repair of said trail system.

ARTICLE V
Detention Basin

The conveyance of each lot shall be deemed to include the conveyance of 1/35th interest, in common and undivided with the owners of the remaining lots in the subdivision, in and to all real estate shown on the Plan and designated as “Detention Basin.” Each lot owner acknowledges the City of Westbrook’s right to assess the same as a taxable interest.

a. Purpose. The establishment of the “Detention Basin” is to ensure that such area will be retained forever in its natural undeveloped condition and to protect and conserve the natural values and scenic condition of such area and the proper drainage of stormwater from the subdivision.

b. Restrictive Use. Such Detention Basin shall remain in its natural, undeveloped condition and shall be subject to the use limitations hereinafter stated. Such Detention Basin shall be used for limited conservation purposes only. No commercial, industrial, quarrying or mining activity shall be permitted in the Detention Basin, except for walking paths designated in keeping with the natural scenic quality of the Detention Basin. No motor vehicles of any kind, including recreational vehicles, dirt bikes and snowmobiles shall be permitted in the Detention Basin, except in an emergency. No filling, paving, dumping, excavations or other alterations shall be made to the surface of the Detention Basin other than that caused by the forces of nature. Any activity on or use of the Detention Basin inconsistent with the uses designated herein is prohibited.

c. Timber and Vegetation. Any destruction or removal of standing trees, plants, shrubs or other vegetation shall not be permitted, except, however, the following:

i. The right to clear and restore forest cover and other vegetation that is damaged or destroyed by the forces of nature, such as fire or disease and when necessary, to prevent the spread of disease.

ii. The right to clear and restore forest cover and other vegetation in the event of any emergency, when necessary, to prevent the spread of fire.

iii. The right to gather, use or remove dead wood.

d. Enforcement. Any lot owners shall have the right, individually or through the Association, to enforce the above covenants against any other lot owner.

ARTICLE VI
Maintenance of Stormwater Collection
and Detention Facilities

The stormwater collection facilities, i.e., storm drains and catch basins, within the road right of way, will be maintained by Declarant until acceptance of the road by the City of Westbrook. It is anticipated that the road be constructed this year and turned over to the City for acceptance in the Fall of 2004. Prior to the road being accepted, Declarant shall maintain the facilities in a clean operating condition by street sweeping, removing debris from catch basin grates, sediment from sumps and flushing the storm drains as necessary to maintain flow. After the road is accepted, the City will maintain the facilities as dictated by their maintenance program.

The stormwater detention facility shall be maintained by Declarant or the Homeowners Association for life as set forth in this Declaration.

The maintenance required will include, but will not be limited to:

- a. Periodic inspection of detention facility for conditions that may affect operation or structural integrity;
- b. Periodic removal of debris, i.e., brush, leaves or trash that may become lodged in the outlet control structure;
- c. Removal of sediment that accumulates within the detention pond. Accumulation shall be removed once the depth of accumulation is 6" over original constructed grades;
- d. Repair of any damaged areas.

The City of Westbrook has the right to enter the facility for emergency repairs.

The attached maintenance log shall be maintained by the Declarant and Homeowners Association and shall be provided to the Department of Environmental Protection, upon request, for review.

ARTICLE VII
Protective Covenants and Restrictions

- a. Residential Use. No lot shall be improved or used except for single family residential purposes, with not more than one principal residence and said principal residence shall have a minimum of 1,600 square feet of available living space for a two-story residence and 1,300 square feet of available living space for a one-story residence, as measured by the area above continuous foundation. No temporary structure or tent shall be used as a residence.
- b. Plan Approval. All building Plans must be approved by the Declarant or its successors or assigns.

- c. Structures. No other buildings or structures of any nature or description shall be erected or maintained on said premises, provided, however, that nothing in this paragraph shall be construed to prevent the construction of a barn, storage shed, cabana, pergola, fence or in-ground swimming pool. Any such building or structure shall be consistent in design and materials with the single family dwelling constructed on the lot.
- d. Maintenance. All lots and buildings thereon shall be maintained in a neat, attractive manner and kept in good repair.
- e. Wood. Cut wood shall be stacked neatly behind or on the side of the residence.
- f. Surface Water. No owner of a lot, his agents or employees shall alter the natural course of surface water on any lot in a way which would materially alter the natural flow of such water across any other lot unless such alteration is approved by the owners of all lots affected. This provision shall not be construed to prevent the proper improvements or maintenance of drainage easements shown on said Plan.
- g. Compliance with Ordinance. All construction activities, including the siting of buildings, shall be in accordance with all local and state laws, codes, ordinances and regulations.
- h. Animals. No horses, cattle, sheep, goats, pigs, poultry or other livestock, or other animals other than household pets shall be kept, maintained or owned on any of the lots. No boarding or breeding kennels may be kept or maintained on any of the lots.
- i. Vehicles. No house trailer, business or commercial vehicle or vehicles of similar nature shall be brought upon, or be maintained or be permitted to remain on any lot except a business vehicle normally used by a lot owner in his or her occupation, provided said vehicle is parked in an enclosed garage. No unregistered vehicles may be kept upon any lot unless such vehicle is stored in a garage or other enclosed structure. No tractor trailers may be kept on any lot.
- j. Siding. No dwelling or other building erected on any lot shall be covered with tar paper, asphalt siding, or corrugated metal siding, but all dwellings and other buildings shall be covered with a natural wood, stone, brick or vinyl siding.
- k. Professional Use. The lots shall be used only for residential purposes, except for limited professional use by the owner/occupant providing that such use does not create traffic substantially greater than that of normal residential use and that said use be approved by the appropriate City official or board.
- l. Nuisances. No owner of a lot shall do or permit to be done any act upon the lot which may be, or is, or may become a nuisance as defined by state or local law, ordinances or regulation.
- m. Signs. No sign of any nature or description shall be displayed or placed upon any part of the premises except for a "For Sale" sign referring only to a lot or residence, or a sign erected by Declarant to identify the subdivision or a sign not exceeding one square foot erected by

a lot owner to identify his or her or their name.

n. Time for Construction. When the construction of the buildings on a lot is once begun, work thereon must be prosecuted diligently and must be completed within one (1) year from the date that construction (including excavation) begins. All disturbed areas not built upon or landscaped, shall be loamed and seeded at the close of construction, but, in any event, must be completed within six (6) months of occupancy. The prohibitions contained herein shall not be construed to prevent the use of trailers, vehicles or temporary structures during the period of actual construction.

o. Satellite Dishes. No satellite dishes larger than twenty (20) inches in diameter or any related devices shall be erected or placed on the premises if visible from the road, right of way or other homes.

p. Driveways. All residences must have a paved or bricked driveway.

q. Garage. All residences must have an attached garage capable of housing at least two (2) vehicles.

r. Access to abutting land. None of the lots numbered 1-35 as shown on said Plan shall be utilized for access to abutting land.

s. Roof Pitch. All roofs on structures built in the subdivision shall be pitched at 8/12.

t. DEP Order. In accordance with the terms and conditions of the Department of Environmental Protection Site Location of Development Findings of Fact and Order, all lots conveyed by the Declarant are subject to said terms and conditions. This shall be binding upon the heirs, successors and assigns of all such lot purchasers.

u. Wetlands. In accordance with municipal and State approvals, there shall be no filling of any wetlands as are currently delineated.

v. Booster Pumps. Lots 12 through 32 (inclusive) shall require a limited service agreement with the Portland Water District. These homes shall require booster pumps installed within the homes at an elevation no greater than 370 feet. This shall be binding upon the heirs, successors and/or assigns of all of the purchasers of said lots.

ARTICLE VIII
Severability

Each and every provision contained herein shall be considered to be independent and separate and in the event that any one or more shall for any reason be held to be invalid and unenforceable, all the remainder hereof shall, nevertheless, remain in full force and effect.

IN WITNESS WHEREOF, S.R. Independence, Inc. has caused this instrument to be executed by Scott Reaves, its President, thereunto duly authorized, this 12th day of March, 2003.

WITNESS

S.R. INDEPENDENCE, INC .

By:
Scott Reaves, its President

STATE OF MAINE
Cumberland, ss.

March 12 , 2003

Personally appeared the above-named Scott Reaves, President of S.R. Independence, Inc. and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of S.R. Independence, Inc.

Before me,

Notary Public/Attorney at Law

Print Name