

JUL 28 2002

STATE OF WEST VIRGINIA Fee \$54.00  
COUNTY OF GREENBRIER RETURN TO: J. STEVEN HUNTER

**DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS,  
TERMS AND CONDITIONS GOVERNING WHITE ROCK MOUNTAIN RETREAT, A  
PLANNED COMMUNITY, IN GREENBRIER COUNTY, WEST VIRGINIA**

THIS DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS, TERMS AND CONDITIONS, made and entered into this the 27 day of July, 2002, by and between WHITE ROCK, LLC, a Limited Liability Company, hereinafter referred to as "Declarant", and the future owners of Lots within the White Rock Mountain Retreat planned community located off Monroe Draft Road, Greenbrier County, West Virginia.

**W I T N E S S E T H:**

**WHEREAS**, Declarant, White Rock, LLC is the owner of a tract or land described in Deed Book 471, at page 699, of the Greenbrier County, Clerk's Office (hereinafter "the Property"); and

**WHEREAS**, the Declarant plan to develop on some or all of the Property parcels of land for residential Lots along with supporting infrastructure to be locally known as White Rock Mountain Retreat; and

**WHEREAS**, Declarant desires, for the benefit of future purchasers of Lots making up White Rock Mountain Retreat, that White Rock Mountain Retreat shall be developed as a restricted area and used exclusively as hereinafter set forth.

**NOW THEREFORE**, in consideration of the premises and for the advantage which the Declarant and Future Owners will receive from the sale and ownership of restricted land, Declarant and its successors and assigns do hereby covenant and agree with all other persons, firms, or corporations now owning or hereafter acquiring any portion of White Rock Mountain Retreat, for full value received, and the landowner covenants and agrees upon acceptance of a deed or deeds of conveyance to any of the Lots making up White Rock Mountain Retreat that White Rock Mountain Retreat is hereby subjected to the following restrictions as to the use and occupancy thereof, running with the land by whomsoever owned, to wit:

**ARTICLE I**

**PURPOSE; LAND SUBJECT TO RESTRICTIONS**

The primary purpose of these covenants and restrictions and the foremost consideration in the origin of the same has been the creation of a planned community which is aesthetically pleasing, functionally convenient and environmentally-sound; attracting residents seeking privacy and security in a beautiful environment. Subject to the Special Declarant Rights as hereinafter defined, the Declarant submits the land described on Exhibit A attached hereto and incorporated herein by reference to the covenants and restrictions contained in this Declaration.

**ARTICLE II**

**DEFINITIONS**

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The following are terms that shall be considered as defined terms under this Declaration and the same definition shall be applicable whether the word is shown as singular or plural, capitalized or not.

1. "Act" shall mean the West Virginia Uniform Common Interest Ownership Act, of the West Virginia Code 36B-1-101 to 36B-4-120 and amendments thereto.
2. "Annexed Properties" shall mean any tract of land not included within the boundaries of White Rock Mountain Retreat as described on Exhibit A attached hereto and incorporated herein by reference which may be added to the White Rock Mountain Retreat planned community as provided in Article IX below.
3. "Association" shall mean White Rock Mountain Retreat Property Owners Association, Inc., a West Virginia non-profit corporation, its successors and/or assigns. The Articles of Incorporation of the Association are attached hereto as Exhibit B and incorporated herein by reference.
4. "Architectural Committee" shall mean the committee created pursuant to Article VII hereof.
5. "Board" shall mean the Board of Directors of the Association and the Executive Board referred to in the Act.
6. "Bylaws" shall mean the Bylaws of the Association and any amendments thereto. The original Bylaws of the Association are attached hereto as Exhibit C and incorporated herein by reference.
7. "Common Elements" shall mean those areas (i) expressly designated by the Declarant as "Common Elements" on recorded plats for the use and enjoyment of all owners of Lots within White Rock Mountain Retreat; and (ii) described in a Supplemental Declaration filed in the Greenbrier County Clerk of the County Commission.. Prior to the expiration of the Declarant Control Period as provided below, the Declarant shall convey by Special Warranty or NonWarranty deed or by an easement instrument ownership and/or use of the Common Elements to the Association. PROVIDED HOWEVER, before the recording of the Supplemental Declaration as provided above, the Declarant has the right to remove any portion of the property denoted as "Common Elements" on a Plat and subject said area to its exclusive dominion whether for future sale or to build upon and without the need for any Lot owner approval or Association consent. "Common Elements" shall include at a minimum the private road(s) providing access from Monroe Draft Road to the Lots as hereinafter defined. "Common Elements" do not include those areas denoted as "Future Development" or as "Reserved" or those areas not labeled on the plats of record for White Rock Mountain Retreat.
8. "Declarant" shall mean White Rock, LLC, its successors or assigns.
9. "Declarant Control Period" shall mean the time in which Declarant has to exercise certain exclusive rights such as, but not limited to, Special Declarant Rights as hereinafter defined. The Declarant Control Period shall be the earlier of (i) twenty-five (25) years after the date of the recording of this Declaration, (ii) when all of White Rock Mountain Retreat (platted at such times and in such phases as determined in Declarant's sole discretion) has been sold or transferred to parties other than a Declarant, or (iii) such earlier time as determined in Declarant's sole discretion by the recording of a written instrument in the Greenbrier County Clerk's Office executed by

Declarant and expressly terminating the Declarant Control Period.

10. "Declaration" shall mean this Declaration of Covenants, Restrictions, Easements, Reservations, Terms and Conditions and any amendments thereto.

11. "Future Development" shall mean any parcel of land owned by the Declarant depicted on Site Plans or other advertising material for White Rock Mountain Retreat as "Future Development" or "Reserved" which may or may not be included within White Rock Mountain Retreat as determined in the Declarant's sole discretion and wherein the Declarant reserves the right to impose use restrictions that may differ from those set forth in this Declaration.

12. "Governmental Entity" shall mean any and all federal, state or local governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of White Rock Mountain Retreat.

13. "White Rock Mountain Retreat" shall mean that planned community made up of Lots, Common Elements and infrastructure located within the boundaries described on Exhibit A attached hereto and incorporated herein by reference and described on future recorded plats and Supplemental Declarations executed by the Declarant at such times and in such phases as determined in Declarant's sole discretion.

14. "Limited common elements" shall mean a portion of the common elements for the exclusive use of one or more but fewer than all of the Lots. "Limited common elements" shall be designated on plats for White Rock Mountain Retreat and may include, but not be limited to, shared driveways.

15. "Lot" shall mean a physical portion of White Rock Mountain Retreat designated with a number on a plat, or plats, of White Rock Mountain Retreat, intended for separate ownership or occupancy by an Owner, and restricted to single-family residential use. A Lot designated on a recorded plat of White Rock Mountain Retreat shall be deemed "Improved" when a residence has been completely constructed thereon and an Occupancy Permit has been issued by the Architectural Committee as provided herein. All other Lots designated on a recorded plat of White Rock Mountain Retreat shall be deemed "Unimproved".

16. "Modular residence" shall mean a residential dwelling delivered to a property in completely constructed box-sections to be fastened together on-site and which meets West Virginia Building Code requirements for residential construction.

17. "Owner" shall mean and refer to the owner or owners as shown by the real estate records in the Office of the Clerk of the County Commission of Greenbrier County, West Virginia, of fee simple title to any Lot situated within White Rock Mountain Retreat. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation.

18. "Plat" shall mean any existing or future plat of White Rock Mountain Retreat which has been placed of record in the Office of the Clerk of the County Commission of Greenbrier County, West Virginia, together with all amendments thereto, as approved by the governmental entity, if any, having authority to regulate subdivisions.

19. "Reasonable attorneys' fees" shall mean attorneys' fee as allowed by the Act.

(c) the right of the Board to dedicate any road and utility rights of way within White Rock Retreat to any Governmental Entity or public utility without a vote of the membership of the Association;

(d) the right of the Board, after an opportunity for a hearing as provided in the Act, to suspend the use of the Common Elements (except for access to a Lot) by an Owner, his tenant or their invitees for any period during which any assessment against his Lot remains unpaid or for any infraction of the use restrictions contained in this Declaration or the rules and regulations promulgated by the Board;

(e) the right of the Board to reasonably regulate, locate, and direct access routes and to designate parking locations;

(f) the right of Declarant, as determined in the Declarant's sole discretion, to grant and reserve unto itself, its successors and/or assigns the right of access for road and utility purposes over or under the Common Elements or Lot owned by Declarant to any parcel of land, whether located within or outside White Rock Retreat planned community, whether owned or not owned by the Declarant and regardless of the use of the beneficial parcel; and

(g) the right of Declarant to add additional properties to be subject to this Declaration and to allow the owners of those properties to become members of the Association.

Section 2. Waiver of Unlimited Access. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot, does waive all rights of unlimited and uncontrolled access, ingress to and egress from such Lot, and agrees that:

(a) To attempt to provide a more secure environment, access, ingress, and egress to and within White Rock Mountain Retreat may be controlled, restricted, and limited to exclude uninvited members of the general public; and

(b) Access, ingress and egress from any Lot shall be limited to the roads, walkways, and paths designated as Common Elements on the Plat.

Provided, however, that subject to the provisions of this Declaration, vehicular and pedestrian access to and from all Lots shall be available at all times.

Section 3. Gates and Attendants. Declarant and/or the Board may, but shall not be required to, provide a gate at or near the entrance to White Rock Mountain Retreat which gate may or may not be attended by one or more attendants for the purpose of limiting vehicular and pedestrian access to White Rock Mountain Retreat.

Section 4. Easements to Government Entities. Subject to the provisions of this Declaration, Declarant does hereby grant a permanent, perpetual and non-exclusive easement to each department, branch or agency of any Governmental Entity, and to any agents or employees of said Governmental Entity, over, across and through all roads within White Rock Mountain Retreat, now or in the future, for the purpose of performing such duties and activities as may be necessary or desirable for the common welfare of all owners or for the Association which may include, but are not limited to, duties and activities related to law enforcement, fire protection, garbage collection, mail delivery and medical and emergency services.

Section 5. Easements to Utilities. Subject to the provisions of this Declaration,

Declarant do grant to the Association, to Allegheny Power, Verizon, and to any other utilities designated by the Declarant, and their successors and/or assigns, a permanent, perpetual and non-exclusive easement over, across, under and through:

- (a) all Common Elements;
- (b) 10 feet inside the boundaries of all Lots; and
- (c) as shown on the Plat

now or in the future, for the purpose of installing, replacing, constructing, maintaining, and operating utilities or utility systems which are necessary or desirable for the use of any part of White Rock Mountain Retreat which include, but are not limited to, publicly or privately owned and operated electrical service, communication service, water service, sewer service, gas service, cable television, drainage systems, pipes, lines, conduits, storage devices, equipment, machinery or other devices necessary to the provision of such utility services. The easements established, reserved and granted herein shall include the right, where reasonably necessary, to cut and remove trees and other vegetation, to dig, excavate fill and take any other action necessary to provide for the installation, maintenance, replacement, relocation or operation of any utility service.

Provided, however, that the easements herein granted or reserved shall not cause any undue interference with the use or occupancy of any Lot and further, that Declarant and/or the Association shall use good faith efforts to attempt to cause any utility provider, utilizing this easement, to repair any damage caused by such utility.

#### Section 6. Easements Reserved to Declarant.

(a) Easements for Access. Declarant reserve to themselves, their successors and/or assigns, a perpetual alienable right to provide access over and across the roads and other Common Elements, if any, or across any Lot owned by Declarant to any parcels of land, whether within or outside White Rock Mountain Retreat, whether owned or not owned by Declarant and regardless of the use of the beneficial parcel.

(b) Easements for Utilities. The Declarant reserves to itself, its successors and/or assigns the utility easements referred to in Section 5 above and Declarant, in its sole discretion, may make such utility easements appurtenant to any parcel of land whether within or outside White Rock Mountain Retreat, whether owned or not owned by Declarant and regardless of the use of the beneficial parcel.

(c) Easements for Stormwater and Drainage. Declarant, its successors and/or assigns, may cut drainways or utilize existing natural drainways for surface or storm water wherever and whenever such action may appear to Declarant to be necessary in order to maintain proper drainage and reasonable standards of health, safety and appearance. Declarant, in its sole discretion, may make such utility easements appurtenant to any parcel of land whether within or outside White Rock Mountain Retreat, whether owned or not owned by Declarant and regardless of the use of the beneficial parcel.

(d) Easements for Vegetative, Pest or Fire Control. Declarant reserves unto themselves, their successors and assigns, a perpetual alienable and releasable easement and right on and over and under all areas within White Rock Mountain Retreat to dispense pesticides and take other action which in the opinion of Declarant is necessary or desirable to control insects, vermin and undesirable vegetation. The Declarant reserves the right to cut fire breaks and other

activities on, over and under all areas within White Rock Mountain Retreat which in the opinion of Declarant is necessary to control fires. Declarant, however, is under no duty to take such actions as herein above provided.

(e) Easements for Septic Systems. The Declarant reserves unto itself, its successors and/or assigns, the right to locate any portion of a septic system on any Common Element in cases where a Lot does not perk or otherwise a Lot does not support a septic system as determined in Declarant's sole discretion.

(f) Easements for Trails. Declarant reserve unto itself, its successors and/or assigns, the right to locate trails across any portion of White Rock Mountain Retreat, including any Lots, for the development of a trail system as a Common Element for the use and enjoyment of all Lot owners. The trail easement affecting any Lot shall be designated on a recorded plat at a location within the sole discretion of Declarant; provided however, the trail easement shall be no closer than one hundred (100) feet from any residence of a Lot existing as of the time of the recording of the plat designating the easement.

Section 7. Easements Appurtenant Upon Transfer of Lot or Common Element

All easements referred to in this Article III that are reserved unto the Declarant, its successors and/or assigns or the Association shall be automatically appurtenant to any Lot or Common Element at the time of transfer of said Lot or Common Element from the Declarant, its successors and/or assigns, regardless of whether the deed of conveyance expressly reserves such easements.

**ARTICLE IV**

**ASSOCIATION MEMBERSHIP AND ASSESSMENTS**

Section 1. Membership in the Association. Every Owner of a Lot shall be a member of the Association and bound by this Declaration, the Articles of Incorporation of the Association and its Bylaws and rules and regulations as hereafter promulgated. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Powers of the Association. The Association shall have such powers as are enumerated in its Articles of Incorporation, its Bylaws or as provided in the Act.

Section 3. Creation of the Lien and Personal Obligation Assessments. Each and every Owner of a Lot by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and as stated in the Bylaws. All such annual and special assessments, together with interest, costs and reasonable attorney's fees for the collection thereof shall be a charge and lien upon a Lot and its improvements. The amount owed shall be a continuing lien upon the applicable property against which such assessment is made, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against the Lot and (ii) liens and encumbrances recorded before the recordation of the Declaration.

Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be a personal financial obligation of the person, or persons, who was, or were, the Lot owner or owners at the time when the assessments became due. The personal

financial obligation for delinquent assessments shall not pass to successors in title to any such Lot unless expressly assumed by such purchaser: PROVIDED, HOWEVER, the same shall be and remain a charge and lien upon any such Lot and improvements until paid or otherwise satisfied except as may herein otherwise be provided.

Section 4. Purpose of Assessments. The assessments levied by the Association shall be used for the purposes in keeping with a nonprofit corporation as set forth in the Association's Articles of Incorporation. Specifically, the assessments shall be used to promote the health, safety and welfare of the Owners and residents of White Rock Mountain Retreat and for the improvements, maintenance and repair of the Common Elements, and easements appurtenant thereto, for the protection of the community from pollution or erosion; for the enforcement of these covenants; the provision of reserve funds, the employment of attorneys, accountants, and other professionals to represent the Association, when necessary, and for payment of local taxes, insurance and special governmental assessments on or to the Common Elements together with payment of services, if any, provided to the residents by the Association.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in accordance with its Bylaws, in any fiscal year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including, but not limited to, fixtures and personal property (such as road signs) related thereto and to pay special governmental assessments.

Section 6. Rate of Assessment. The determination of the total amount of Common Expenses for any given fiscal year of the Association shall be within the sole discretion of the Board. The Board shall allocate assessments for common expenses in such amounts to be fixed from year to year and the Board may establish different rates for various general classifications of lots according to the use and location of said lots. It is within the Board's discretion to determine what assessment is warranted in cases where a Lot is combined or subdivided. The maximum increase by the Board in any given year is ten (10%) percent. Any greater increase must be voted on by the Membership.

Section 7. Effect of Nonpayment of Assessments.

(a) Remedies of the Association. Any assessments which are not paid when due as determined by this Declaration and the Board shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of the delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against his property, and interest, costs and reasonable attorney's fees of any such action for collection thereof shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges and liens as a debt and to enforce the aforesaid charge and lien by methods available for the enforcement of such liens. The available enforcement remedies include, but are not limited to, those rights stated under the Uniform Common Interest Ownership Act of the West Virginia Code 36B-1-136 to 168.. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all members of the Association. The Association, acting on behalf of its members, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be

necessary or expedient. No owner of a Lot may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot.

After notice and opportunity to be heard, the Association may restrict the use of Common Elements (not including rights of access to Lots) by a Lot owner who is delinquent in paying assessments.

(b) Remedies of Declarant. To the extent that any Lot owner fails to pay his assessments relating to the Common Elements, then Declarant shall have during the Declarant Control Period, the right, but not the obligation, in addition to the Association, to use any of the remedies enumerated above, including filing a lien against the defaulting owner and pursuing the enforcement of such lien and other remedies as set forth in the Act.

The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of Declarant or Association to exercise any or all of the others or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear or affect its enforcement.

Section 8. Association Responsibility of Maintenance/Repair/Improvement. The Association and its members shall be responsible for the maintenance, repair and improvement of all Common Elements as identified on recorded plats for White Rock Mountain Retreat and in a Supplemental Declaration.

Section 9. Reserve Funds, Operating Expense Surplus and Surplus Funds. The Board shall have the right, but not the obligation, within its sole discretion, to impose assessments on Lot owners for the maintenance of reserve funds or operating expense surpluses. The Association, within its sole discretion, may apply surplus funds to any purpose of a non-profit corporation or may credit such funds to its members as provided for in West Virginia Code Statute 36B-3-14.

Section 10. Architectural Review fees; Impact fees; Cash Bonds. The Board shall have the right, but not the obligation, within its sole discretion, to impose a uniform schedule of fees to be applied to any Owner of a Lot at the time that Owner applies for approval to construct a residence on the Lot to offset the costs of architectural review and to mitigate the effect that Owner's development plans will have on the infrastructure and environment within White Rock Mountain Retreat. These fees may take the form of Architectural Review fees and/or Impact fees and any such fees may be non-refundable in the sole discretion of the Board.

## ARTICLE V

### COMMON ELEMENTS

Section 1. Roads. All owners of Lots acknowledge that the roadways within White Rock Mountain Retreat shall be privately maintained and not intended to be developed for takeover by the West Virginia Department of Transportation ("DOT"). The roadways within White Rock Mountain Retreat shall be constructed to the minimum standards required for private roads by the County of Greenbrier. The schedule and completion of the construction and the design of said roads shall be within the sole discretion of Declarant.



Section 2. Other Common Elements. During the Declarant Control Period, the Declarant may, but is not obligated to, provide other properties within White Rock Mountain Retreat as Common Elements. The designation and transfer of these areas are solely in the discretion of Declarant and no parol or oral agreement or claims of estoppel shall be asserted by any resident providing rights to areas not explicitly denoted as "Common Elements" on the Plats for White Rock Mountain Retreat and described in a Supplemental Declaration. Before the Association and its members shall assume the responsibility for maintenance, repair and improvement of a Common Element not specifically defined in this Declaration (such as roads), the Declarant shall record a Supplemental Declaration and plat reasonably identifying the Common Element.

Section 3. Conveyances.

Any Common Element conveyed by the Declarant to the Association shall be conveyed subject to:

- (a) All restrictions on use contained in this Declaration;
- (b) All existing mortgages, provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgage;
- (c) The right of access for ingress, egress and regress and utilities of the Declarant, its successors and/or assigns over and across such property; and
- (d) The right of the Declarant, its successors and/or assigns, to approve all structures, construction, repairs, changes in elevation and topography and the location of any object (including vegetation) within the Common Element prior to the commencement of such activities or location of any object therein.

The recording of a Deed or an Easement instrument from the Declarant to the Association of a Common Element in the Office of the Clerk of the County Commission of Greenbrier County, West Virginia shall be conclusive evidence that the Association has accepted such transfer.

## ARTICLE VI

### SITE IMPROVEMENT REVIEW AND APPROVAL

Section 1. Construction Within White Rock Mountain Retreat. Except as provided for the Declarant below, no structure shall be commenced, erected or maintained upon any Lot in White Rock Mountain Retreat; nor shall any exterior addition to any existing structure or change or alteration therein, nor shall any site work be done until complete final construction plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location, and floor plan therefor, and showing front, side and rear elevations thereof, and septic system plans have been submitted to and approved in writing by an Architectural Review Committee (herein "Committee") appointed by the Board as provided in Article VII below. Prior to the construction or erection of any structure, a site plan to scale must be approved on a topographical map that shows the location of the structure, including all drives, walks and parking areas, with each clearly indicated. A landscaping maintenance plan must also be submitted and approved by the Committee, indicating what measures shall be taken to insure the longevity and vitality of any landscaping improvements.

Prior to any physical disturbance of a Lot, special drainage and/or irreplaceable features are to be identified and provisions for their protection clearly established. This includes large and/or specimen trees, rock outcroppings, springs and streams, and concentrations of azaleas, rhododendrons, and other shrubs and wild flowers. Silt fences shall be required prior to any physical disturbance. Culverts needed for ingress or egress shall be provided by the Owner of a Lot and shall be as specified by the Committee. The Owner of a Lot shall insure that all development performed by said owner conforms with all applicable federal, state and local laws and regulations. The Committee shall have the right to establish reasonable procedures for the preparation, submission, and determination of applications for any structure construction or alteration or landscaping work. Prior to construction, every Lot owner shall comply with the erosion control provisions in Article VIII, Section 15 below.

Section 2. Declarant Exemption. During the Declarant Control Period, Declarant reserves the right to erect or alter a Structure without the need to submit any plans or obtain the prior approval of the Association or Committee.

Section 3. Approval of Plans, Contractors and Enforcement. The Committee's refusal or approval of plans, specifications, or location of any structure may be based upon any grounds including purely aesthetic considerations which at the sole discretion of the Committee, for projects within White Rock Mountain Retreat, shall be deemed sufficient. In passing upon construction plans, specification plans, or landscaping plans, and without any limitation of the foregoing, the Committee shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the building or other structure on the appearance from neighboring property. Notwithstanding that improvements meet or exceed specified minimum size requirements, the quality and attractiveness of every structure must also meet high neighborhood standards and the Committee is hereby granted broad discretion in judging the compatibility of proposed structures for the neighborhood. In any case, it is intended that the Committee will not approve plans, materials or specifications that do not comply with Sections 4 and 5 below.

The Committee is presumed to have approved any plans referenced above, upon failure to respond within sixty (60) days after receipt of each completed application and particular plan. In the event any Owner violates the terms of this Article, the Association shall give written notice to the Owner or responsible party to cure such violation within thirty (30) days. The Association or its agents shall be entitled to enter upon the property of the Owner and remedy such defect including removal of any structure built in violation hereof, all at the expense of the Owner. This right of the Association shall be in addition to all other general enforcement rights which the Association may have for a breach or violation of the terms of these covenants and restrictions and shall not be deemed a trespass by the Association or its agents.

Section 4. Minimum Floor Areas/Floor Plan; Maximum Building Coverage.

(a) All one-story houses shall have the minimum floor area of one thousand five hundred (1,500) square feet of heated living space.

(b) All one and one-half story houses shall have a total minimum floor area of at least one thousand two hundred (1,200) square feet on the ground floor of heated living space with one thousand seven hundred and fifty (1,750) square feet overall of heated living space.

(c) All two-story houses shall have a total minimum floor area of one thousand seven

hundred and fifty (1,750) square feet of heated living space.

(d) For minimum size calculations, unfinished basement and attic areas, garages, porches, patios and greenhouses are not included in computing heated living space. Notwithstanding the exclusion of basements from the foregoing calculation of square footage, the Committee, by unanimous consent, may, at its sole discretion and judgment, include in its computation of heated living space, up to seventy-five percent (75%) of the square footage of that portion of a basement that is finished. The Committee, in its deliberations, will consider the following factors in this regard:

- i. That the finished ceiling height is not less than eight (8) feet;
- ii. That the exterior finish of said basement area is in substantial conformity with the exterior finish of the remainder of the dwelling;
- iii. That the interior basement finish is substantially similar in quality and appearance to the interior finish of the remainder of the dwelling; and
- iv. That basement windows, in such finished area, are similar in size, number and location to windows located in the remaining portions of the dwelling.

(e) The maximum structural ground coverage on a Lot shall not exceed eight thousand (8,000) square feet with a maximum of six thousand (6,000) square feet for any principal building.

Section 5. Minimum Site Improvement Requirements.

(a) Each dwelling is to have at least a two car enclosed garage unless variance is granted by Declarant.

(b) All driveways and parking areas must be paved asphalt, concrete or other surface approved by the Committee. The Committee may require an Owner of a Lot with a driveway greater than 300 feet in length to clear and grade a space adjacent to the drive for emergency service use. The Declarant may grant a variance for unusual circumstances.

(c) All play equipment shall be placed so that it is not visible from any street. Treehouses are considered structures that require written approval from the Committee.

(d) No outside clothesline shall be permitted.

(e) No decorative features such as sculptures, bird baths, bird houses, fountains or other decorative embellishments shall be permitted that are visible from any street unless approved in writing from the Committee.

(f) The exterior material of all buildings shall extend to ground level and shall be either brick veneer, stone veneer, wood, a combination of same or other material approved by the Committee. In no case will exposed concrete block, unpainted sheet metal, particle board, plywood, aluminum siding be permitted. All vents, roof caps, and flashing extending above the roof line must be painted to match the roof color and vents extending through the exterior walls must be painted to match the exterior walls. No foundation footings shall be visible. Other conditions may be taken into consideration that allow the alteration of the materials to come to the finish grade at the sole discretion of the Committee.

(g) No bright-finished or bright-plated metal exterior door, screen door, window, window screen, louver, or other closure may be used. However, a factory painted or an anodized finish may be used, the color of which must be approved by the Committee.

(h) Window air conditioning units are not permitted. All compressor units shall be ground mounted. Compressor units shall be screened by approved fencing or planting. Notwithstanding, the Committee may waive this requirement if the Lot owner is able to show that new technology has made air conditioning systems aesthetically acceptable.

(i) Satellite dishes or other outside tv antennas shall require written approval from the Committee. In no event shall satellite dishes or related antennae exceed thirty (30) inches in diameter.

(k) All fencing must be of wood, brick, stone, wrought iron, or other material approved by the Committee. The use of chain link or other like metal fencing will not be permitted except where concealed by a wood fence and, provided, that said chain link or metal fencing is black, charcoal, dark brown or some other color, as approved by the Committee.

(l) All screened porches and screens must have a dark color or anodized finish screen. Bright-color finish screens are not permitted.

(m) Front, side and rear setbacks for single family residences on Lots shall be determined in the sole discretion of the Committee. Setbacks for single-family residences on Lots shall be based upon, but not limited to, such factors as topography, lot shape, frontages and also potential views to give property owners the fullest enjoyment of their Lots while balancing ecological constraints. Notwithstanding the above, no structure on a Lot shall be constructed closer than: twenty-five (25) feet from the front Lot boundary line; ten (10) feet from the side Lot boundary line; and fifteen (15) feet from the rear Lot boundary line. The declarant may grant a variance for unusual circumstances; and

Residences visible from a street shall be erected in such a manner that the front thereof shall face in the direction of the road serving the Lot. In the case of corner Lots or of residences constructed on two or more Lots, the residence may face an appropriate direction for either Lot subject, however, to written approval of the Committee.

For the purpose of this covenant, neither Committee-approved fences, driveways, or sidewalks nor eaves, steps or other minor projections extending beyond the foundation, shall be considered as part of the building, provided, however, that this provision shall not be construed to permit any portion of a building on a Lot to encroach on another Lot. Variances from this section are set forth in Article VIII, Section 29.

Section 6. Occupancy Permit. At the completion of all construction in accordance with the plans submitted, the Owner shall request an on-site inspection by the applicable review entity set forth above. No residence or building may be occupied until an Occupancy Permit has been issued by the Committee, when applicable. Approvals will not be unreasonably withheld, but in addition to the above, the following will be required:

(a) Final as-built plans must be submitted in conformance with plans approved by the Committee for the construction of the structure, unless waived in writing by the Committee;

(b) Exterior lighting must be approved; and

- (c) All clean-up must be completed;

## ARTICLE VII

### ARCHITECTURAL REVIEW COMMITTEE

Section 1. Organization, Power of Appointment and Removal. There shall be an Architectural Review Committee organized as follows:

(a) Committee Composition. The Committee shall consist of five (5) members, being a Chairperson and four additional members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be a member of the Board or an officer of the Association.

(b) Quorum and Meetings of Members. The Committee shall meet upon the call of the Chairman or of any three (3) members. At any meeting, three (3) members, one of which may be the Chairman, shall constitute a quorum.

(c) Terms of Office. The term of the Committee shall be staggered with the initial Committee members designated to serve one year, two year or three year terms and thereafter, each Committee member will serve a three year term. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed.

(d) Appointment and Removal. The right to appoint and remove all members of the Committee at any time, and for any reason, shall be and is hereby vested solely in the Board, provided, however, that no member may be removed from the Committee by the Board except by the vote or written consent of three-fifths of all of the members of the Board.

(e) Resignations. Any members of the Committee may at any time resign from the Committee by giving written notice thereof to the Declarant and to the Board.

(f) Vacancies. Vacancies of the Committee, however caused, shall be filled by the Board.

Section 2. Duties. It shall be the duty of the Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms set forth in Article VI above, to adopt appropriate rules establishing policies for site improvements within White Rock Mountain Retreat, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration.

Section 3. Meetings and Compensation. The Committee shall meet from time to time (not more often than once each month except in extraordinary circumstances) as necessary to perform its duties hereunder. Subject to the provisions of Paragraph (b) of Section 1 above, the vote or written consent of any three members, at a meeting, shall constitute the act of the Committee. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. No member of the Committee who is a member of the Association shall receive from the Association, any compensation for services, provided that the Board may pay reasonable compensation to any member of the Committee who is not a member of the Association. All

members of the Committee shall be entitled to reimbursement from the Association for all reasonable expenses incurred by them in the performance of any Committee functions.

Section 4. Architectural Review Committee Rules. The Committee may, but shall not be required to, from time to time in its sole discretion, adopt, amend, and repeal rules and regulations to be known as "Architectural Review Committee Rules" which shall establish policies for review procedures and standards for site improvements within White Rock Mountain Retreat.

Section 5. Waiver. The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

Section 6. Liability. Neither the Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of:

(a) The approval or disapproval of any plans, drawings, specifications, whether or not defective.

(b) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications.

(c) The development of any property, including, but not limited to, defective construction of residences.

(d) The execution and filing of any estoppel certificate, whether or not the facts therein are correct.

Section 7. Appeal of Committee Decisions. Any party aggrieved by a decision of the Committee may appeal such decision to the Board, and such decision of the Committee is final, unless overridden by a vote of two-thirds of the Board. No Owner or any other party shall have recourse against the Committee or the Board for its refusal to approve any plans, specifications or contractors.

## ARTICLE VIII

### USE RESTRICTIONS

Subject to the Special Declarant Rights, the following use restrictions shall apply to all property within White Rock Mountain Retreat:

Section 1. Subdividing, Combination and Boundary Relocation. No Lot shall be subdivided, or its boundary lines relocated, for any purpose other than to merge an additional Lot or part thereof so as to create a Lot larger than the original Lot. No subdivision, combination or boundary relocation shall be made without the written approval of Declarant, its successors and assigns except, however, Declarant hereby expressly reserves to itself, its successors or assigns, the right to re-plat, combine or subdivide any Lot or Lots, shown on the recorded plats, prior to the conveyance thereof, in order to create a modified Lot or Lots. These restrictions herein apply to each Lot which may be so created. Following the combination of two Lots into one larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this

Declaration. Once combined, the resulting larger Lot may only be subdivided with the consent of the Declarant, its successors, and/or assigns. The Board, in its sole discretion, shall determine what effect, if any, the combination or subdivision of a platted Lot has on the assessments for that modified Lot.

Section 2. Commercial Use. Except for home occupations as defined below, no commercial or industrial enterprise, undertaking or use is permitted within White Rock Mountain Retreat, unless specifically shown on a recorded Plat that has been signed by Declarant. If no such enterprise, undertaking or use is shown on a signed recorded plat, then no such enterprise undertaking or use is permitted. Notwithstanding the above, a "home occupation" on a Lot is allowed with the written consent of the Declarant or Association. A "home occupation" is a use of a residence by an Owner-occupant wherein not more than 25% of the residence is dedicated to business use and there is no traffic generated by the business.

Section 3. Duty to Maintain and Rebuild.

(a) Each Owner shall, at his sole cost and expense, maintain and repair his residence, keeping the same condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

(b) Each Owner shall keep the grass on the lot properly cut, shall keep the lot free from trash, and shall keep it otherwise neat and attractive in appearance. This shall not be construed as requiring natural areas on a Lot to be mowed.

(c) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the Owner shall, with all due diligence, promptly rebuild, repair or reconstruct such apparent condition existing immediately prior to the casualty. Alternatively, the Lot owner shall completely raze the residence and sod or seed the entire Lot until such time construction of a new residence is begun.

Section 4. Temporary Structures; Mobile Homes and Modular Homes. No structure of a temporary character shall be placed upon any portion of White Rock Mountain Retreat at any time; provided, however, that this prohibition shall not apply to shelters used by contractors during the construction of any single family residence. Basements or partially complete single-family residences will be considered temporary and may not be inhabited. Mobile homes, trailers, recreational vehicles, and tents, may not, at any time, be used as temporary or permanent residences or be permitted to remain on any portion of White Rock Mountain Retreat after completion of construction thereon as herein above provided, except that the Declarant or the Board may designate areas within White Rock Mountain Retreat as camping sites. Modular residences are permitted within White Rock Mountain Retreat subject to Committee written approval.

Section 5. Exterior Construction. The exterior of a single-family residence on a Lot as well as site work and landscaping must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner of a Lot due to strikes, fire, natural emergencies or natural calamities. Single family residences may not be occupied until the exterior thereof has been completed. If the exterior is not completed within one (1) year, the Board may require a responsible Lot owner to pay the Association the sum of one hundred fifty dollars (\$150.00) in liquidated damages for each day after 1 year that the exterior is not completed.

Section 6. Trees. No trees, living or dead, shrubs or wildflowers may be removed

without the written approval of the Committee, unless said trees are located within fifteen (15) feet of a residence or within the right-of-way of driveways and walkways. Notwithstanding the above, any tree which poses a threat to life or property may be removed without the written consent of the Committee. Should a party remove any tree or vegetation as herein provided without the above-described written approval, the Board may fine a party the sum of one hundred fifty dollars (\$150.00) for every tree cut without permission, and thereafter one hundred fifty dollars (\$150.00) per tree for each day that a replacement plan acceptable to the Board is not completed. In addition to the above remedies, the Association and its agents may enter the property to replace the removed tree or vegetation and charge the violating owner the costs of such replacement.

Section 7. Trash. No Lot shall be used or maintained as a dumping ground or disposal site for rubbish, trash, or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers and at all times stored inside of a garage or residence. This restriction shall not apply during the period of construction of a residence on the Lot or adjoining Lots, however, upon completion of construction the owner shall comply with all restrictions with respect to disposal of trash and maintenance of the Lot and property in a neat and attractive manner.

Section 8. Utilities; Antennae; Wireless Communication. All utilities, wires, cables, antennae and the like, of any kind (such as telephone, electrical, television, radio and citizens band radios) must be placed underground except as may be expressly permitted and approved in writing by the Committee. No wireless communication towers or antennae shall be permitted within White Rock Mountain Retreat, except with the written permission of the Committee and the Declarant.

Section 9. Off-street Parking. Each Owner of a single-family residence on a Lot shall provide sufficient space for parking of any and all vehicles off the roadways for any of said Owner's vehicles or his guest's vehicles.

Section 10. Vehicles. The Board shall have the power to place any reasonable restrictions upon the use of roadways, including but not limited to the types and sizes of vehicles, including motor cycles, using the roads, the maximum and minimum speeds of vehicles, all other necessary traffic and parking regulations and the maximum noise level of vehicles.

Section 11. Vehicle Storage. Any recreational vehicles, boats, motor homes, campers and the like must be parked in an area screened from view. Garage doors must be closed at all times when not in use.

Section 12. Lot Upkeep. It is the responsibility of each Lot Owner to prevent any unclean, unsightly, or unkempt condition of buildings or grounds to exist on the Lot Owner's property. The Declarant or the Association shall have the right, but not the duty, to enter upon any property for the purpose of abating any unclean, unsightly or unkempt condition of buildings or grounds which tend to decrease the beauty of the specific area or the neighborhood as a whole. The cost of such abatement and any damage resulting from such entry shall be at the expense of the specific Lot Owner and said entry shall not be deemed a trespass.

Section 13. Nuisances. No obnoxious or offensive activity shall be carried on upon any portions of White Rock Mountain Retreat nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner of a Lot, tenant or guest thereof in any area of White Rock Mountain Retreat thereby diminishing the enjoyment of other Lots by their owners. No hazardous or toxic substances or wastes as defined by applicable law shall be dumped within White Mountain Rock Retreat. No plant, animal, device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or



destroy the enjoyment of any portion of White Rock Mountain Retreat by the Lot owners, tenants, and guests thereof, may be maintained. The Board has the right in its sole discretion to determine a nuisance, and upon ten (10) days' written notification by the Board, the activity must cease.

Section 14. Erosion Control. Declarant and/or the Association shall have the right to protect from erosion the land designated as areas upon which residential building shall take place, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as providing drainage ways and/or dams or other means deemed expedient or necessary by Declarant and/or Association to provide and insure against such erosion. The Declarant or the Association, however, is under no duty to take such actions as herein above provided. During the improvement of any Lot, every Owner of a Lot shall use best management practices as that term is defined by applicable State of West Virginia environmental regulations to control erosion and prevent off-site damages so long as one-fourth (1/4) acre of land is disturbed. The Committee may require any Lot owner disturbing more than one-fourth (1/4) acre of land to submit for Committee approval an erosion control and drainage plan, and therein require that such plan be signed off by a licensed Engineer. In order to implement effective and adequate erosion control and protect the beauty and purity of the water courses within White Rock Mountain Retreat, the Association and its agents shall have the right, but not the obligation, to enter any Lot for the purpose of correcting or remedying any erosion control violations. Any costs of remediation attributable to a Lot Owner's failure to comply with best management practices in erosion control incurred by the Association shall be the responsibility of the Lot Owner.

Section 15. Fires. No outdoor fire shall be built within White Rock Mountain Retreat without the Board's or Declarant's permission. No leaves, trash, garbage or similar debris shall be burned except as permitted in writing by the Board or Declarant. Outdoor grilling shall be done with the greatest of care in view of fire and smoke hazards and general pollution.

Section 16. Signs. No sign for advertising or for any other purpose shall be displayed on any Lot or on a building or a structure on any Lot, except temporary construction signs not greater than nine (9) square feet in size; provided, however, Declarant shall have the right to (i) erect signs when advertising the property, (ii) place signs on Lots designating the lot number of Lots, and (iii) following the sale of the lot, place signs of such Lot indicating the name of the purchaser of that Lot. This restriction shall not prohibit placement of occupant name signs and Lot numbers. Notwithstanding the above, the Declarant may require an owner of a Lot to install, at Owner's expenses, and at a location designated by Declarant, common address signage for easy identification for emergency services.

Section 17. Water Courses. No lake shall be constructed, neither shall the course of any stream be changed, nor any culverts installed in any stream without prior written approval of Declarant. An Owner of a Lot shall maintain a thirty (30) foot undisturbed buffer from all watercourses within White Rock Mountain Retreat unless a detailed grading plan is approved by the Committee and the Owner has provided to the Committee written confirmation of compliance from all Governmental Entities with jurisdiction over such project.

Section 18. Storage Tanks. Underground gasoline storage tanks are not permitted within White Rock Mountain Retreat. Underground propane or liquid gas tanks and above ground storage tanks may be allowed subject to Committee written approval.

Section 19. Animals. No animal, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other commonly domesticated household pets may be kept, provided that they are not bred, maintained or housed (i.e. kennels) for commercial purposes. Pets,

when running loose, must be kept strictly within the boundaries of a Lot Owner's property. At all other times, they must be kept securely on a leash. No pets are permitted if they are kept so as to constitute a nuisance as determined by the Board in their sole discretion.

Section 20. Vacant Lots, Reserved Areas and/or Future Development. Unused and/or vacant lots, or property designated herein as reserved areas and/or future development are not to be trespassed upon for any reason.

Section 21. Hunting and Firearms. Hunting, trapping, or the harassing of animals, fowl or game is prohibited, and the discharge of firearms or bows or arrows for any purpose shall be prohibited.

Section 22. Fishing. Fishing rules are to be governed by the State of West Virginia and rules as circulated to the owners of Lots by the Declarant and/or the Board.

Section 23. Trespass. Whenever the Association or the Declarant is permitted by these covenants to correct, repair, clean, preserve, clean out or do any action on any portion of White Rock Mountain Retreat, including Lots, entering such areas and taking such action shall not be deemed a trespass on the part of the Association or the Declarant or its agents.

Section 24. Septic Systems. Septic tanks, drain and repair fields constructed on a Lot must comply with all applicable State and local regulations. The location of the septic system on a Lot must be approved by the Committee.

Section 25. Enforcement.

(a) All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them.

(b) Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in the Act, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of Declarant or Association to exercise any or all of the others or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear or affect its enforcement. Any person entitled to file a legal action for violation of these covenants shall be entitled as part of any judgment in favor of the filing party to recover reasonable attorney's fees as a part of such action.

Section 26. Responsibility for Others. Owners of a Lot are obligated to assume the responsibility that any and all dependents, guests, servants, visitors and building contractors working for the Lot Owner observe and maintain all the rules, regulations, covenants and restrictions binding the Lot Owners themselves.

Section 27. Leasing or Renting. A Lot Owner may lease or rent the family residence owned by such Owner; provided, however, that the tenant or lessee shall be bound by all covenants and restrictions contained herein. At no time may a Lot Owner lease or rent a portion of the family dwelling unit unless the entire family dwelling unit is leased or rented.

Section 28. Variances. In case of hardship and for good cause shown, the Declarant during the Declarant Control Period or the Board or the Committee may in their sole discretion grant variances from any of these covenants and restrictions. The decision of Declarant or the Board to grant or not grant variances as herein provided is based upon the Declarant's or Board's sole and absolute discretion.

## ARTICLE IX

### FUTURE PHASES; ANNEXED PROPERTIES; AND REMOVAL OF PROPERTIES

During the Declarant Control Period, the Declarant reserves the right to subject Annexed Properties as herein defined to the terms of this Declaration and the general plan of development for White Rock Mountain Retreat by the filing of a supplement to this Declaration with corresponding plat that identifies the property to be added to White Rock Mountain Retreat. Notwithstanding any provision of this Declaration to the contrary, Declarant, in its sole discretion, shall designate in the Supplemental Declaration the permitted uses within the Annexed Properties, which may be other than residential, and any other development restrictions affecting the use and enjoyment of said land. Notwithstanding the differences, if any in the use restrictions for Annexed Properties, it is the intent of the Declarants that properties once annexed be part of the general plan of development for White Rock Mountain Retreat; provided, however, during the Declarant Control Period, the Declarant reserves the right to modify the boundaries of White Rock Mountain Retreat to remove unsold properties from the White Rock Mountain Retreat planned community. This right to remove properties from the general plan of development for White Rock Retreat does not apply to Common Elements unless such removal is in conformity with Section 36B-3-112 of the Act. This Article is to be construed to give the Declarant the broadest flexibility to add Annexed Properties to the White Rock Mountain Retreat planned community with use restrictions tailored for each additional tract or to modify the boundaries of White Rock Mountain Retreat when determined in the sole discretion of the Declarant to be in the best interest of White Rock Mountain Retreat.

## ARTICLE XI

### AMENDMENTS

During the Declarant Control Period, the Declarant reserves the right, without the consent of the Association or any other Lot owner, to amend this Declaration or any amendments thereto if necessary for the exercise of or protection of any Special Declarant Rights. Otherwise, this Declaration may be amended only by affirmative vote or written agreement signed by Owners of Lots to which sixty-seven percent (67%) of the votes in the Association are allocated. During the Declarant Control Period, any amendments to this Declaration requires the written consent of the Declarant.

## ARTICLE XII

### MISCELLANEOUS

Section 1. Severability. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal

or unenforceable, for any reason whatsoever, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 2. Construction of this Declaration.

This Declaration and the provisions contained herein shall be construed in accordance with the laws of the State of West Virginia. Except for Special Declarant Rights and other rights herein reserved to the Declarant, the Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret the provisions hereof, and its good faith determination, construction or interpretation shall be final and binding.

IN WITNESS WHEREOF, the Declarant, has caused these presents to be signed this the 17th day of JULY, 2002.

DECLARANT: WHITE ROCK, LLC

By: Charles E. Ausburn (SEAL)

Print Name: Charles E. Ausburn Member

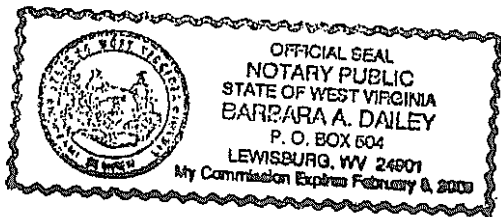
STATE OF WEST VIRGINIA

COUNTY OF GREEN BRIER TO-WIT:

I, BARBARA A. DAILEY a Notary Public of the County and State aforesaid, certify that CHARLES E. AUSBURN personally came before me this day executing the foregoing instrument.

Witness my hand and Notarial seal this 17th day of JULY, 2002.

My commission expires the 5th day of FEBRUARY, 2009.



Barbara A. Dailey  
Notary Public