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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

THE VINEYARDS

Prepared By

Kenneth J. Barton, Jr.
Steptoe & Johnson, PLLC
126 East Burke Street
Martinsburg, West Virginia

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

THE VINEYARDS

THIS DECLARATION, made this 10th day of October, 2006, by WHITMORE HOMES, INC., a West Virginia corporation, hereinafter called Declarant.

WITNESSETH:

WHEREAS, Declarant desires to create thereon a residential community which consists of single family homes with stormwater management and drainage spaces, access and parking areas, lights and other common areas and facilities for the benefit of the said community, and

WHEREAS, Declarant desires to provide for the preservation of the value and amenities in the community and for the maintenance of stormwater management and drainage spaces, lights, lot entrances, access and parking where provided and other common areas, and, to this end, desires to subject the real property described in Exhibit A together with such additions as may hereafter be made thereto (as provided in Article VII) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and

WHEREAS, Declarant has incorporated under the laws of the State of West Virginia, as a non-stock, non-profit corporation, THE VINEYARDS HOMEOWNERS ASSOCIATION, INC. for the purpose of exercising the functions aforesaid.

WHEREAS, this Declaration is intended to create a common interest community as defined in the West Virginia Uniform Common Interest Ownership Act, Chapter 36B, West Virginia Statute (the Act), et seq., but which community shall not be subject to the Act pursuant to Chapter 36B, Article 1, Section 203(2) of the Act, except Sections 105, 106, 107 and 114 of Article 1 of the Act.

NOW THEREFORE, the Declarant declares that the real property described in Exhibit A, and such additions thereto as may hereafter be made pursuant to Article VII hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

Article I
Definitions

Section 1. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of The Vineyards Homeowners Association, Inc., as filed with the Secretary of State of West Virginia.

Section 2. "Association" shall mean and refer to The Vineyards Homeowners Association, Inc., a West Virginia corporation, its successors and assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under West Virginia Corporate Law.

Section 3. "Base Assessment" shall mean and refer to assessments levied against all Lots or Residences in the Properties to fund Common Expenses.

Section 4. "By-Laws" shall mean and refer to the By-laws of The Vineyards Homeowners Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference, as they may be amended from time to time.

Section 5. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III, Section 2, of the By-Laws.

Section 6. "Common Area" shall be an inclusive term referring to those areas of land shown on any recorded subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of the Owners of the Properties. The initial Common Area shall be conveyed to the Association prior to the conveyance of a Lot or Residence to any purchaser.

Section 7. "Common Expense" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, the Articles of Incorporation or the Rules of the Association. Common Expense shall not mean fines and penalties permitted and levied against Owners, Lots and Residences for violation of this Declaration, the By-Laws and the Rules and Regulations of the Association.

Section 8. "Community Standard" shall mean the standard of construction quality and design, conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Committee.

Section 9. "Concept Plan" shall mean and refer to the Concept Plan for the development of the property described in Exhibit A prepared by William H. Gordon Associates Inc., as it may be amended from time to time, a copy of which is annexed hereto as Exhibit "D".

Section 10. "Declarant" shall mean and refer to Whitmore Homes, Inc., a West Virginia corporation, or any other person or entity that Whitmore Homes, Inc., in writing, may so designate; recording of such designation shall not be required in order for such designation to be effective.

Section 11. "Dwelling" shall mean any building constructed upon a Lot which is intended for use as a single family residence.

Section 12. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area as heretofore defined.

Section 13. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 14. "Mortgage" shall mean and refer to a permanent or construction mortgage, a deed of trust, a deed to secure debt, or any other form of security deed, including any collateral security documents executed in connection therewith.

Section 15. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 16. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 17. "Owner" shall mean and refer to one or more Persons who hold the record title to any Lot or Residence which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation until such person has acquired title pursuant to foreclosure on any proceeding in lieu of foreclosure.

Section 18. "Parcel Developer" means any developer who purchases land within the Properties (as defined in this Article I) for the purpose of development and sale.

Section 19. "Person" means a natural person, a corporation, a partnership, a trustee, or other

legal entity.

Section 20. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 21. "Residence" shall mean and refer to both the Lot and Dwelling situated upon the Properties.

Section 22. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 3, of this Declaration.

Section 23. "Supplemental Declaration" shall mean any amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Section 24. "Utility Building" shall mean any building constructed upon a Lot which is intended for use as a storage building.

Article II Property Rights

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time and subject to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, members and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Residence shall be deemed to have delegated all such rights to the Owner's lessee.

Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the community pursuant to Article VII hereof, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for Vineyards Subdivision desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Vineyards Subdivision.

Article III Membership and Voting Rights

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association. For purposes of this Article, the term "Lot" shall mean to include both "Lots" and Residences.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

Section 2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

- (a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 1 hereof; and there shall be only one (1) vote per Lot.

In any situation where more than one (1) person holds the interest in such Lot, the vote for such Lot shall be exercised as those persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) person seeks to exercise it.

- (b) Class "B". The Class "B" Members shall be the Declarant. The rights of the Class "B" Members, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Members shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III, Section 2, of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 3, of the By-Laws. The Class "B" membership shall terminate and become converted to Class "A" Membership upon the earlier of:
- (i) two (2) years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
 - (ii) when, in its discretion, the Declarant so determines.

Article IV Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Area, such maintenance to be funded as hereinafter provided. This maintenance shall include, but needs not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Common Area, including, but not limited to, drainage systems, open space, utilities, traffic control devices, parking areas where provided, all private streets within the Properties, and such portions of any additional property included within the Common Area as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of Common Area shall be a Common Expense to be allocated among all Lots and Residences as part of the Base Assessment.

The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community Standard.

Any person authorized by the Association shall have the right of access to all portions of the Properties for the purpose of performing exterior maintenance; for the purpose of correcting any condition threatening a Lot, Residence or the Common Area, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, meters, wires and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, and with such force as is apparently necessary to gain entrance, whether or not the Owner is present at the time.

Each Owner will reimburse the Association for any damages to the Common Area caused intentionally, negligently, or by his or her failure to properly maintain, repair, or make replacements to his or her Residence. The Association will be responsible for damage to Residences caused intentionally, negligently, or by its failure to maintain, repair, or make replacements to the Common Area. If such expense is caused by misconduct, it will be assessed following notice and hearing.

In cases where the Association has gained entrance to a unit in response to an emergency, the Association shall be responsible only for securing the premises following the emergency, and shall not be responsible to the Owner for any damages caused to the Residence in gaining entrance or in otherwise responding to the emergency. The Owner shall be responsible for making all repairs to the Residence which result from the emergency and shall hold the Association harmless from any damages resulting therefrom.

Section 2. Owner's Responsibility. Each Owner shall maintain his or her Residence and all structures, parking areas and other improvements comprising the Residence in a manner consistent with the Community Standard and all applicable covenants. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Owner thereof in accordance with Article IX, Section 1, of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Article V

Insurance

Section 1. Insurance by the Association. The Association's Board of Directors, or its duly authorized agent, shall obtain blanket, all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have such coverage and limits of liability as the Board deems appropriate.

The Board may also obtain insurance indemnifying the officers and directors of the Association for its negligent acts with such coverage and limits of liability as the Board deems appropriate. All insurance premiums shall be a Common Expense of the Association.

Section 2. Hazard and Flood Insurance. Each Owner shall obtain, and maintain in effect fire and appropriate extended insurance coverage and other appropriate damage and physical loss insurance, all in an amount equal to the then current full replacement value of each Residence owned by such Owner, which insurance shall be subject to such additional requirements as may be established from time to time by the Board or the Association by resolution. Such additional insurance requirements may be set forth in agreements or other undertakings which the Board or Association may enter into with or for the benefit of holders or insurers of mortgages secured upon portions of the Properties.

Section 3. Obligation to Repair and Restore.

(a) Subject only to the rights of an institutional holder of a first mortgage lien on a damaged Residence, the insurance proceeds from any insurance policy covering a Residence shall be first applied to the repair, restoration, or replacement of such Residence. Each Owner shall be responsible for the repair, restoration, or replacement of each Residence owned by such Owner pursuant to the terms hereof. Any such repair restoration or replacement shall (subject to advances and changes in construction techniques and materials generally used in such construction and then current generally accepted design criteria) be generally harmonious with the other Residences, and reconstruction must be consistent with plans approved by the Architectural Review Committee.

(b) If the proceeds of the insurance are insufficient to pay for the cost of repair, restoration, or replacement of a Residence, the Owner of such Residence shall be responsible for the payment of any such deficiency necessary to complete the repair, restoration, or replacement.

(c) If the insurance proceeds are in excess of the amount necessary for the repair, restoration, or replacement of a Residence, the Owner of such Residence shall be entitled to such excess in accordance with the provisions of the applicable insurance policies and subject to the terms of any mortgage covering such Residence.

Section 4. Association Rights. If any Owner fails to obtain the insurance required in this Article, or fails to pay the premiums therefor when and as required or fails to otherwise perform the obligations of a Owner under this Article, the Association may (but shall not be obligated to) obtain such insurance, make such payments for any cost of such payments or performance, as a special assessment, to the general assessment of such Owner.

Section 5. Additional Insurance. Each Owner may obtain additional insurance at his own expense, provided, however, that (i) such policy or policies shall be governed and written in accordance with such reasonable rules and regulations as may from time to time be established by the Board or Association and (ii) no Owner shall be entitled to exercise his right to maintain insurance covering in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on any part of The Properties at any time.

Article VI No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provision of this Declaration.

Article VII Annexation of Additional Property

Section 1. Annexation Without Approval of Class "A" Membership. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B" has been subjected to this Declaration or September 30, 2020, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B", attached hereto and by reference made a part hereof. Such annexation shall be accomplished by filing in the public records of Berkeley County, West Virginia, an amendment to this Declaration annexing such property. Such Supplemental Declaration shall be executed by the Declarant and shall not require the consent of Members. Any such annexation shall be effective upon the filing for record by Declarant of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the Parcel Developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Section 2. Annexation With Approval of Class "A" Membership. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the right in Section 1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of a majority of the Class "A" votes of the Association (other than those held by Declarant) present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing of record in the public records of Berkeley County, West Virginia, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the Vice-President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon

filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B" which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 4. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" hereof.

Section 5.1. Development Rights. The Declarant, by way of explanation and not limitation, reserves fully, completely, and to the maximum the following Development Rights:

- (a) The right by amendment to add real estate to the Properties. The real estate to which this development right applies is set forth in Exhibit "B".
- (b) The right by amendment to create Lots and Common Area within the Properties.
- (c) The right by amendment to subdivide and combine Lots or convert Lots into Common Area.
- (d) The right by amendment to withdraw real estate from the Properties.
- (e) The right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Properties for the purpose of furnishing utility and other services to all Lots. The Declarant also reserves the right to withdraw and grant easements to public utility companies and to convey improvements within those easements anywhere in the Properties not occupied by buildings.

Section 5.2. Limitations on Development Rights.

- (a) The Development Rights reserved in this Article must be exercised within fifteen (15) years after the recording of the initial Declaration.
- (b) All Lots and Common Area created pursuant to the Development Rights will be as more fully set forth and defined in Article XI restricted to residential use.
- (c) The quality of construction of any Residences to be created on the Property shall be consistent with the quality of the Residences erected in the initial phase of the Properties. Styles of Architecture and Design may change but shall always be consistent with the Community Standard.
- (d) Declarant shall approve all such plans and specifications to ensure that they will be within the Community Standard.

Section 5.3. Phasing of Development Rights. Any of the Development Rights set forth in Section 5.1 above may be exercised with respect to different parcels of real estate within the Properties at different times, and at different locations. However, no assurances are made by the Declarant as to when, where, or the portions where the Declarant will exercise its Development Rights or the order in which such portions, or all of the real estate, will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions of the real estate within the The Vineyards.

Section 5.4. Special Declarant Rights. The Declarant fully and completely reserves the following Special Declarant Rights anywhere within the Properties:

- (a) To complete any and all improvements (including by way of explanation and not limited to streets, roads, stormwater management, utilities, and single family homes indicated on Plats and Plans filed with the Declaration, any Supplemental Declaration or reasonably anticipated and implied from the nature of the development;
- (b) To exercise a Development Right reserved in the Declaration;
- (c) To maintain sales offices, construction offices, signs advertising the Properties and The Vineyards and models;
- (d) To use easements through the Common Area for the purpose of making improvements within the Properties or within real estate which may be added to the Properties.
- (e) To appoint or remove an officer of the Association or a Board member during the period of Class "B" Control Period.

The real estate to which the Special Declarant Rights specified in Sections (a) through (e) above apply is shown on Exhibit "B".

Section 5.5. Models, Including Model Homes and Homesites, Sales Offices and Construction Offices. As long as the Declarant is developing the land shown in Exhibit "A" and "B", the Declarant and its duly authorized agents, representatives and employees may maintain any Lot owned by the Declarant or any portion of the Common Area as a model Residence or sales office or construction office.

Section 5.6. Construction: Declarant's Easement. The Declarant reserves the right to perform initial building and construction work, warranty work, repairs and construction work, and to store materials in secure areas, in Residences and in Common Area, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Board. The Declarant has such an easement through the Common Area as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Development Rights or Special Declarant Rights, whether or not specifically reserved in this Declaration such easement including the right to convey utility and drainage easements to public utilities, municipalities, counties, and the State, to fulfill the plan of development.

Section 5.7. Signs and Marketing. The Declarant reserves the right to post signs and displays in the Common Area to promote sales of Residences, and to conduct general sales, administrative and maintenance activities in a manner as will not unreasonably disturb the rights of Owners.

Section 5.8. Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the Properties promptly after the sale of the last Residence or Lot permitted under the Declaration any and all goods and improvements used in development, marketing, construction and maintenance, whether or not they have become fixtures.

Section 5.9. Declarant Control of the Association. There shall be a period of Declarant control of the Association as more fully set forth and defined in this Declaration and the By-Laws, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board and have all other such rights of control as are set forth in this Declaration and the By-Laws.

Section 5.10. Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right specified in Sections 5.4, 5.5, 5.6, 5.7, and 5.8 may be exercised by the Declarant until the earlier of the following: so long as the Declarant (i) is obligated under any warranty or obligation, (ii) holds a Development Right to create additional Lots or Common Area, (iii) owns any Lot or Residence; or (iv) owns any Security Interest in any Lot or Residence; or (v) for fifteen (15) years after recording

this Declaration, whichever is earliest.

Section 5.11. Interference with Development Rights or Special Declarant Rights. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Development Rights or Special Declarant Right without the prior written consent of the Declarant.

Article VIII Rights and Obligations of the Association

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any of the Common Area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association. Fines shall constitute a lien against Lots or Residences.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances or permit Berkeley County to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other rights or privileges given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Governmental Interests. The Association shall permit the Declarant reasonable authority to designate sites within the properties for fire, police, water, sewer, cable t.v. facilities, and other necessary services and utilities.

Article IX Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant except as hereinafter provided in Section 10 for each Lot owned by it within The Properties hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay the Association: (1) annual assessments or charges; (2) special assessments for general capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Basis and Maximum of Base Assessments: Until the year beginning January, 2006, the Base Assessment shall be One Hundred Dollars (\$150.00) per Lot or Residence. From and after January 1, 2007, the Base Assessments may be increased by vote of the Board of Directors of the Association. The Board shall at least annually review current maintenance costs, and replacement costs including a reasonable depreciation reserve and insurance costs, including property, general liability and directors and officers liability, if any, and the future needs of the Association and based on said review may increase or decrease the assessments. PROVIDED, HOWEVER, that the annual average Common Expense of each Lot or Residence, inclusive of special assessments, and exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed \$300.00 as adjusted pursuant to Section 114, of Article 1 of Chapter 36B of the West Virginia Code, to-wit: Adjustment of dollars amounts under the West Virginia Uniform Common Interest Ownership Act.

Section 4. Special Assessments for Capital Improvements: In addition to the Base Assessments authorized by Sections 1 and 3 hereof, the Association may levy in any assessment year a special assessment, applicable to not more than 8 years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; PROVIDED THAT any such assessment shall have the assent of 60% of the Association Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting; AND FURTHER, PROVIDED, that the annual average common expense liability of each Lot or Residence, inclusive of special assessments, and exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed \$300.00 as adjusted pursuant to Section 114, of Article 1 of Chapter 36B of the West Virginia Code, to-wit: Adjustment of dollars amounts under the West Virginia Uniform Common Interest Ownership Act.

Section 5. Quorum for Any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof shall be as follows:

At the first meeting called, as provided in Section 4 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4, and the required quorum of any subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Base Assessments. The Base Assessments provided for herein shall commence on the date of this Declaration. They shall be due and owing at the time that a Lot or Residence is transferred from Declarant to any other person.

The first Base Assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of January of said year.

The amount of the Base Assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of days in that year bear to the number of days in the year. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The date of any special assessment under Section 4 hereof shall be fixed in the resolutions authorizing such assessment.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Residence for each assessment period at least thirty (30) days in advance of such date or period and shall at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessment. If the assessments are not paid on the date when due (being the dates specified in Section 6 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owners, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the maximum rate permitted by law and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on assessment as above provided and a reasonable attorney's fee if permitted by law to be fixed by the court together with the costs of the action.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 10. Exempt Property: The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein.

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Area as defined in Article I, hereof;
- (c) All properties exempted from taxation by the laws of the State of West Virginia, upon the terms and to the extent of such legal exemption.
- (d) All Lots or Residences owned by the Declarant within the area covered by this Declaration; provided, that this exemption shall cease as to any individual Lots or Residences owned by the Declarant upon the date that the Declarant shall convey title of any Lot or Residence to another person.

As the Declarant is to be exempt from assessments, the Declarant does hereby covenant and agree that until such time as its exemption terminates, the Declarant shall be responsible for the

reasonable maintenance, operation and upkeep of the undedicated portion of the Common Area. Further, until such time as the Declarant's exemption terminates, the Declarant shall be responsible for the reasonable maintenance, upkeep and operation of the dedicated Common Area at the expense of the Association. After the termination of the Declarant's exemption, the Declarant shall have no responsibility for the maintenance and upkeep of the Common Area in the subdivision except as a Member of the Association.

Article X Architectural Review

Section 1. Applicability of Architectural Review for New Construction. All plans and specifications for the construction of any Dwelling, Utility Building, and Fence upon a Lot shall be subject to sole and absolute approval of the Declarant.

Section 2. Applicability of Architectural Review of Alterations or Additions of Residences. **ANY OWNER WHO WISHES TO MAKE ANY ALTERATION OR ADDITION WHICH WILL AFFECT THE EXTERIOR OF HIS LOT OR RESIDENCE IS REQUIRED TO OBTAIN THE APPROVAL OF THE BOARD PURSUANT TO THIS ARTICLE PRIOR TO MAKING ANY SUCH ALTERATION OR ADDITION.** Any owner who makes an alteration or addition without the prior approval of the Board shall be deemed to be in violation of this Declaration. Nothing in this Article shall be deemed to relieve any owner from obtaining all necessary consents and permits and otherwise complying with all applicable State and local laws and ordinances.

Section 3. Formation of Architectural Review Committee. All architectural review shall be performed by the Board, or a committee appointed by the Board, in accordance with the provisions of this Article. If the Board appoints a committee, the "Architectural Review Committee", to perform the architectural review functions, there shall be no less than three (3) members and no more than seven (7) members, all of whom must be Owners. The terms of office shall be as designated by the Board.

Section 4. Duties. The Board shall consider and act upon proposals and/or plans submitted pursuant to this Article. The Board, from time to time and in its sole discretion, may impose architectural rules, regulations, and guidelines ("Architectural Standards"). The Architectural Standards shall interpret and implement the provisions of this Declaration and the Community Standard by setting forth the standards and procedures for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features which may be used in the Project; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration, and the Community Standard. The Architectural Standards shall be accepted as Rules when adopted in accordance with the provisions of the By-Laws.

Section 5. Application for Approval of Improvements. Any Owner, except Declarant and its designated agents, who wants to perform any alteration or addition for which approval is required shall notify the Board in writing of the nature of the proposed work and shall furnish such information as may be required by the Architectural Standards or reasonably requested by the Board.

Section 6. Basis for Approval of Improvements. The Board may approve the proposals only if the Board finds that (i) the plans and specifications conform to this Declaration, the Community Standard and to the Architectural Standards in effect at the time the proposal was submitted; (ii) the proposed alteration or addition will be consistent with the standards of the Properties, the Community Standard, the provisions of this Declaration, and the Architectural Standards as to quality of workmanship and materials, harmony of exterior design and visibility with respect to existing structures, environment location with respect to topography and finished grade elevations; and (iii) the proposed alteration or improvement is in conformance with conditions imposed by any municipal or county ordinance having jurisdiction.

Section 7. Form of Approval and Denials. All approvals and denials shall be in writing. Any denial of a proposal must state the reasons for the decision to be valid. Any proposal which has not

been rejected in writing within forty-five (45) days from the date of submission shall be deemed approved.

Section 8. Liability. If Directors have acted in good faith on the basis of such information possessed by them, neither the Board nor any Director shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings, and 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 within the Project; or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct.

Section 9. Non-Applicability to Declarant. The provisions of this Article shall not apply to the Declarant.

Article XI Restrictions on Use, Alienation and Occupancy

Section 1. Primary Use and Occupancy Restrictions. Subject to the Development Rights and Special Declarant Rights reserved under Article VII, the following use and occupancy restrictions apply to all Residences and, where applicable, to the Common Area:

- (a) Primary Residential Use. Except as permitted by Article XI, Section (b), all Residences shall be used for residential purposes only.
- (b) Business Use in Residential Units. No trade or business may be conducted in or from any Residence, except that an Owner or occupant residing in a Residence may conduct business activities within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Section 2. Other Use and Occupancy Restrictions. Subject to the Development Rights and Special Declarant Rights reserved under Article VII the following use and occupancy restrictions apply to all Lots, Residences and the Common Area:

- (a) SUBDIVISION OF LOTS.

No Lots shall be divided, subdivided or partitioned in any way by sale, gift, devise, or other method of conveyance, except to allow for nominal boundary line adjustments. No Lot or Residence shall be combined or merged with any other Lot or Residence without the prior written approval and consent of the Board or the Architectural Review Committee.

- (b) PROPERTY MAINTENANCE.

Each Owner shall keep their Residence in a safe, clean, neat, and well maintained condition, and shall comply with all applicable safety, health, police and fire department requirements. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building material shall be permitted to remain exposed on any Residence except as necessary during the construction period. Rubbish, leaves, and trash shall not be disposed of in the Properties by burning in open fires or incinerators. All trash and garbage cans or receptacles shall be stored out of view from neighboring Residences, roads, or streets, except at times of scheduled garbage or trash pickup.

(c) NUISANCE.

No noxious, illegal, hazardous, dangerous or offensive use, construction or activity shall be conducted on any Residence, nor shall anything be done thereon which may be or become an annoyance or nuisance to the owners, tenants or occupants of other Residences within or adjacent to the property by reason of unsightliness, or the excessive emission of fumes, odors, glare, excessive heat, vibration, gases, vapors, chemicals, radiation, dust, liquid waste, smoke or noise. No Residence shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Residence to appear in an unclean or untidy condition or that will be obnoxious to the eye.

(d) UNREGISTERED VEHICLES.

No unregistered vehicles of any kind, including, but not limited to, automobiles, trucks, pickups, buses, motorcycles, vans, motor homes, trailers, boats, farm tractor and equipment, or recreational vehicles shall be parked, stored, or in any way maintained on any street, right-of-way or Common Area or at any Residence, except within a garage.

(e) PETS.

Only common domestic house pets shall be allowed at any Residence, provided they are not kept or bred for any commercial purpose. Pets shall not be allowed to roam at large, and pets shall not be housed, fenced or otherwise maintained on a regular basis outside of the primary Dwelling. Kennels, dog runs, dog houses, and other similar pet facilities are prohibited. No farm animals, livestock, or poultry of any kind shall be kept, maintained or in any way allowed at any Residence. The Association shall have absolute authority to prohibit unusual or exotic animals, birds, or reptiles from being kept at a Residence or in an improvement located thereon, and shall have the authority to prohibit or regulate loud and noisy pets.

(f) PARKING.

1. General Parking Rules. Each Residence shall provide an off street parking area for at least two (2) 6' X 18' vehicles. All driveways shall be black topped or concreted and shall include at the street entrance an appropriate drainage culvert or depression as needed. Except for temporary and unusual irregular overflow parking from the garage and driveway of any Residence, no parking shall be permitted on any street or road within the Properties. No Owner shall park on a regular or continuing basis more than two (2) registered vehicles at the Residence, other than inside any improvement thereon. No camping trailers, boat trailers, mobile homes, campers, boats, nor travel trailers may be parked or stored in the Properties. All garages, carports and parking areas must receive approval by the Architectural Review Committee pursuant to the terms of Article X. Truck type tractors are not permitted at any dwelling. No vehicles with a Gross Vehicle Weight of 15,000 lbs. Or more shall be permitted at any dwelling. Subject to such Rules, Regulations and Fines adopted by the Association, a recreational vehicle, boat, trailer or motor home may be parked on the driveway of a Residence for a period of not to exceed three (3) consecutive days for the purpose of and the sole purpose of preparing the vehicle for a trip. No Member may park such a vehicle for such purposes more than six (6) times in any calendar year.

(g) SNOWMOBILES, TRAIL BIKES AND SIMILAR VEHICLES.

No snowmobiles, trail bikes, mini-bikes, all terrain vehicles, or other similar vehicles shall be permitted to operate within the Properties.

(h) UTILITY BUILDING.

One Utility Building shall be permitted to be placed upon a Lot containing a detached

single family dwelling subject to the foregoing conditions and setback requirements contained in Section I hereunder. A Utility Building shall be no smaller than ten (10) feet by ten (10) feet and shall be no larger than twelve (12) feet by twenty four (24) feet, and shall not be higher on the side wall than eight (8) feet from the finished floor to the base of the roof and fourteen (14) feet from the base of the finished floor to the peak of the roof. A Utility Building shall be subject to approval by Architectural Review in Article X herein prior to the construction of the same and shall conform to exterior finish materials of the residence. "Umbrella-type" clotheslines shall be permitted at single family detached residences.

(i) FIREARMS.

The discharge of firearms shall not be permitted within the Properties. No hunting shall be allowed within the Vineyards Subdivision. The term "firearms" include "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

(j) CONSTRUCTION.

During construction, Lots shall be kept free and clear of unnecessary and unsightly debris. All trash, rubbish and debris shall be cleaned from the Lots on a reasonable, periodic basis during construction and all trash, rubbish and debris shall be promptly removed from the Lot after construction is completed. Existing storm water and runoff drainage patterns for each Lot shall be protected at all times both during and after construction. During construction, reasonable measures shall be taken to prevent erosion by wind and water.

(k) COMMERCIAL VEHICLES, EQUIPMENT, ETC.

Except during periods when construction is taking place on the Lot, no trucks larger than one (1) ton capacity, no construction vehicles, camper tops, or like equipment or mobile or stationary trailers of any kind shall be placed or permitted to remain on any Lot.

(l) BUILDING SETBACK REQUIREMENTS.

The minimum building setback line for all improvements constructed on any Lot shall be as follows:

1. The boundaries of each Lot created by the Declaration are shown on Exhibit "A" as numbered lots on the plat, together with the ground beneath each such lot and the airspace above each such lot. The identifying number of each Lot is shown on Exhibit "A" of the Declaration.

(i) The minimum building set back line for all improvements constructed on any Lot shall be as follows:

(a) All Single Family Detached Home Lots: Twenty (20) feet from the front property line and nine (9) feet from the rear and five (5) feet side property lines. The front property line is defined as the property line fronting on the street from which access to the lot is provided as shown on the plat of Vineyards Subdivision.

(b) Utility Building: Five (5) feet from the side and rear property lines; provided however, Utility Buildings may only be placed in the rear yard of a Lot, which shall mean that portion of the Lot from the rear of the detached single family dwelling to the rear property line, and said Utility Building shall be located as the Architectural Review Board deems appropriate.

(ii) A side line setback shall not apply to a common property line between the two Lots in single ownership when a permitted residence is built straddling the common property line and overlapping both Lots.

(m) PARTY WALLS AND FENCES.

1. General Rules of Law to Apply: Each wall, fence, common walls and sidewalks which are built as part of the original construction of any Residence or other improvement constructed upon the Properties and placed on the dividing line between any Lots or Residences shall constitute a party wall, (all of which are hereinafter referred to as party wall) and, to the extent not inconsistent with the provisions of this subsection, the general rules of law regarding party walls and of liability for property damage due to the negligence or willful acts or omissions shall apply thereto.

2. Cost of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the party wall in proportion to such use.

3. Damage or Destruction: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the party wall may, subject to the approval of the Architectural Review Committee, restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost or restoration thereof in proportion to such use, without prejudice; however, to the right of any such Owners to call for a larger contribution from the Owners under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

4. Structural Integrity: There shall be no impairment of the structural integrity of any party wall without the prior written consent of all Owners having any interest therein, the first mortgagees of each such Owner, and the Architectural Review Committee.

5. Right to Contribution Runs with Land: The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(n) UTILITY LINES.

All utility service lines, including but not limited to, electric, telephone, natural gas, cable television, water and sewer lines shall be buried underground, excluding all required pedestals, transformer boxes, and other required above ground improvements.

(o) OUTDOOR LIGHTING.

Outdoor lighting shall be of a type and installation such that no direct glare is visible from adjoining properties.

(p) MAIL BOXES.

The Architectural Review Committee may determine the location, color, size, design, lettering, and all of the particulars of all mail or paper delivery boxes, and standards and brackets and name signs for the boxes in order that the area be strictly uniform in appearance with respect to these items.

(q) STORAGE TANKS.

All storage tanks for use in connection with any residence, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from the view from neighboring Residences, roads, or streets.

(r) SIGNS.

All signs displayed in the Properties shall be attractive and compatible with the design

of the Properties and shall comply with all applicable local ordinances. The only signs of any kind which may be displayed to the public view on or from any Lot, Residence or Common Area in the Properties shall be as follows:

(1) One (1) sign of reasonable dimensions may be placed on a Lot or Residence advertising the Lot or Residence for sale or rent.

(2) Signs may be displayed by Declarant or Parcel Developer on Common Area, unsold Lots or unsold Residences, as Declarant or Parcel Developer deems appropriate, advertising Lots or Residences owned by Declarant or Parcel Developer for sale or rent.

(3) Appropriate signs may be displayed by the Association to identify the Properties.

(4) Signs required by legal proceedings may be displayed.

(s) WATER AND SEWER.

All Residences shall be connected to the public water and sewer systems serving the Properties, and no Residence shall be occupied until such time as it is connected to the public water and sewer system. No private water well or septic system shall be permitted at any Residence.

(t) BEVERAGE RESTRICTION.

No beer, wine, liquor or any other intoxicating beverages of any type or nature will be sold or stored for sale at any Residence.

(u) RESTRICTION ON RESIDENCE TYPES.

No structure of a temporary character, trailer, house trailer, mobile home, mobile double wide, basement, tent, shack, garage, barn or other out building shall be used on any Lot at any time as a Residence, either temporarily or permanently.

(v) FENCES.

Unless otherwise designated by plat depiction or notation, fencing shall be constructed only in rear yards, beginning at the corner of the house, following side lot lines and along rear lot lines. No solid fences shall be permitted on said lots with the exception of those immediately surrounding pool area. Such swimming pool fences may be up to six (6) feet in height. Any other fences, including but not limited to, non-solid fences, shall not exceed forty-eight (48) inches in height. Chain link, American Wire and Barbed Wire fences are entirely strictly prohibited. All fences must be approved by the Architectural Review Committee pursuant to Article X. All fences must be constructed of pressure treated lumber or pre-finished vinyl. Permitted fencing may be built within setback areas so long as they meet other requirements of this Declaration.

(w) LOTS AND RESIDENCE SIZE.

1. Lots sizes: All Lots which will contain single family detached homes shall be no less than 7,500 square feet.

2. Residence Sizes: All buildings on any Lot designated for a single-family, single-level structure shall contain a minimum of 1,200 square feet. All single family, detached two-story structures shall contain a minimum of 1,400 square feet. Dimensions stated shall be exterior wall dimensions excluding basements, garages, decks, porches, eaves and other similar extensions and overhangs.

(x) OCCUPANTS BOUND.

All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests, agents and invitees at any Residence. Every Owner shall cause all occupants of his or her Residence to comply with the Declaration, By-Laws, and the rules and regulations for all violations and losses to the Common Area caused by such occupants, notwithstanding the fact that such occupants of a Residence are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

(y) ANTENNAS.

1. No exterior antennas, aerials or other apparatus for the transmission or reception of television, radio, or other signals of any kind, shall be installed, maintained, or used upon any portion of the Properties. Subject to the provisions of this Section, satellite dishes not to exceed twenty-four inches (24") shall be permitted as a Protected Antenna.

2. The restriction of paragraph (1) above shall not apply to the installation, use and maintenance of antennas used to receive video programming signals, to the extent that the installation, use, and maintenance of such antennas are protected by the federal Telecommunications Act of 1996, as the same may be amended, (hereinafter "Protected Antenna(s)"); provided, however, that prior to installing such antennas, an Owner must submit a written request for the installation, maintenance, and use of such antenna to the Board or a Committee appointed by the Board for such purpose. Such written request shall be accompanied by documentation showing the antenna to be a Protected Antenna and a sketch showing the proposed placement of the Protected Antenna on the Dwelling. A Protected Antenna shall be placed in a location on the Dwelling that is not visible from any street, if such placement permits reception of an acceptable quality signal; provided, however, that no Protected Antenna shall be placed on a Dwelling in such a manner as to obstruct or interfere with the clear line of sight of motorists on any street. This restriction is deemed necessary for the safety of residents and visitors of the Properties. In order to further protect the safety of residents and visitors of the Properties, all antennas shall be properly grounded and securely and adequately installed by bolting or guying in accordance with the requirements as set forth in the Building Officials and Code Administrators International, Inc. model code ("BOCA code"), shall be placed no closer to a high voltage power line than permitted by the BOCA code, and shall extend no more than twelve (12) feet above the roof line of any Unit. All Protected Antennas to be placed on the ground shall be screened from view by foliage, to the extent such screening does not preclude reception of an acceptable quality signal. All antennas shall be painted, in a fashion that will not interfere with reception, so that the antenna blends into the background against which it is mounted.

3. The Board, or a Committee appointed by the Board for such purpose, may promulgate rules for implementing and carrying out the purpose and intent of this paragraph and as necessitated by any future amendments to the Telecommunications Act of 1996. In acting on any request for installation of a Protected Antenna, the Board, or a Committee appointed by the Board for such purposes, shall not unreasonably delay its review of, and decision on, such request.

4. The Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for maser antenna or cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized by the Declarant or the Association and require such exterior apparatus. Such system may be provided by the Declarant or the Association through an independent Vendor.

(z) SWIMMING POOLS.

No above-ground swimming pools shall be erected, constructed or installed on any Lot. In-ground swimming pools may be erected, constructed or installed on any Lot that contains a single family detached home. All swimming pools must be approved pursuant to Article X.

(aa) DRAINAGE.

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may change or re-channel the drainage flow after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow.

(bb) SIGHT DISTANCE AT INTERSECTIONS.

All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

(cc) ARTIFICIAL, EXTERIOR SCULPTURE, AND SIMILAR ITEMS.

No artificial vegetation or lawn ornaments shall be permitted on the exterior of any portion of the Residence. Exterior sculpture, fountains, flags, and similarly items must be approved in accordance with Article X of this Declaration.

(dd) GENERAL STORAGE.

All permitted personal property, including but not limited to garbage containers, grills, bicycles, toys, yard equipment, lawn mowers, and all other household personal property shall be stored within the home or garage upon each Lot, or a permitted Utility Building.

(ee) LANDSCAPING AND EXTERIOR MAINTENANCE.

All landscaping and Residences shall be maintained and cared for by the Owner in a manner consistent with the standards of design and quality originally established by Declarant and in a condition comparable to that of other first class residential subdivisions in the County. Specific restrictions on landscaping may be established in the Rules. Landscaping in the Common Area shall be maintained by the Association in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed.

(ff) NO IMMORAL PURPOSE.

No immoral, improper, offensive, or unlawful use may be made of the Property and Lot Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of West Virginia and all ordinances, rules and regulations of the County of Berkeley. The violating Owner shall hold the Association and other Owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

Section 3. Restrictions on Alienation.

(a) A Residence may not be conveyed pursuant to a time-sharing plan.

(b) A Residence may not be leased or rented for a term of less than 30 days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents

and the Association.

All leases of a Residence shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce, and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

Article XII Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Residences in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Residence on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees entitled to be cast thereon consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);
- (c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

- (d) fail to maintain insurance, as required by this Declaration; or
- (e) use hazard insurance proceeds for any Common Area losses for other than repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Residence in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Notice of Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Residence.

Section 5. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 6. Applicability of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or West Virginia corporate law for any of the acts set out in this Article.

Section 7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Section 8. Development Rights. No Development Rights or Special Declarant Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment, or termination.

Article XIII Additional Declarant's Rights

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument signed by the Declarant and duly recorded in the public records of Berkeley County, West Virginia. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Residences within the Properties and all permitted additions thereto shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Residence, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities.

As long as Declarant continues to have rights under this Declaration, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar

instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant. Furthermore, so long as Declarant continues to have rights under this Declaration, Declarant shall be permitted to amend, modify and otherwise change this Declaration and the Covenants and Restrictions as necessary in Declarant's sole discretion to complete the development of the subdivision.

So long as Declarant continues to have rights under this Paragraph, all sales, promotional, and advertising materials, and all forms for deeds, contracts for sale and other closing documents for the subdivision and sale of property in the Properties by any Parcel Developer shall be subject to the prior approval of Declarant, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any Parcel Developer of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Declarant fails to so notify any Parcel Developer within such thirty (30) day period, Declarant shall be deemed to have waived any objections to such materials and documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this article shall terminate upon the earlier of (a) September 30, 2014, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XIV Easements and Rights-of-Way

Section 1. Easements: The ownership interests in the Common Area and Lots and Residences described in this Declaration are subject to the easements granted and reserved in this Declaration. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Owners and Lots and Residences superior to all other encumbrances applied against or in favor of any portion of the Properties. Individual grant deeds to Lots and Residences may, but shall not be required to, set forth the easements specified in this Article.

Section 2. Easements on Map: The Common Area and Lots and Residences are subject to the easements and rights-of-way shown on the Plat or Plats of the Properties.

Section 3. Utilities: There are reserved and granted for the benefit of each Lot and Residence, as dominant tenement, over, under, across and through the Properties (including the Common Area and each other Lot and Residence), as the servient tenement, non-exclusive easement for utility services.

Section 4. Encroachment: There are reserved and granted for the benefit of each Lot and Residence, as dominant tenement, over, under and across each other Lot, Residence and Common Area, as servient tenements, and for the benefit of the Common Area, as dominant tenements, over, under and across each Lot and Residence, as servient tenement, non-exclusive easements for encroachment, support, occupancy and use of such portions of Lots, Residences and/or Common Area as are encroached upon, used and occupied by the dominant tenements as a result of any original construction design, (expressly including overhanging eaves) accretion, erosion, addition, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof, or any other cause. In the event any portion of the Properties is partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching Improvement shall exist for as long as the encroachments exists; provided, however, that no valid easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may but need not be cured by repair and restoration of the structure.

Section 5. Support, Maintenance and Repair: There is hereby reserved and granted a non-exclusive easement appurtenant to the Common Area and to all other Lots and Residences, as dominant tenements, through each Lot, Residence and Common Area, as servient tenements, for the support, maintenance and repair of the Common Area and all Lots and Residences.

Section 6. Easement to Declarant for Adjoining Property: Declarant shall have, and hereby expressly reserves, an easement over and across the Common Area, as servient tenement, for the purposes of reasonable ingress to and egress from, over and across the Properties, including private roads and pathways, to the Additional Property until all of the Additional Property is annexed to the Properties, and as otherwise set forth in the Declaration.

Section 7. Annexation of Additional Property: Upon the recordation of a Supplementary Declaration of Annexation, the Lots and Residences and the Owners of Lots and Residences in the annexed Phase shall have all of the easements specified in this Article and the Lots, Residences and Owners of Lots and Residences in the Properties prior to the annexation shall have all of the easements specified in this Article as through the annexed Phase were initially a part of the Properties.

Section 8. Additional Easements: Notwithstanding anything expressly or impliedly to the contrary, this Declaration shall be subject to all easements granted and/or reserved by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of the Properties.

Section 9. Association's Easements: There are hereby reserved to the Association and their duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Association set forth in this Declaration and the Association Articles, By-Laws and Rules of the Association.

Section 10. Party Walls: Each Owner of a Residence containing a party wall and the Lot upon which such party wall is located shall have a reciprocal non-exclusive easement over and across such portions of the contiguous Lot as is necessary to maintain such party wall.

Section 11. Easements to the Declarant and Association: There are hereby granted to the Declarant and Association, and their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association and the right of the Declarant. Specifically, but without limiting the generality of the foregoing, there are hereby reserved and granted to Declarant and to the Association easements over the Lots, Residences and Common Area within the Properties for the communication system, the pedestrian circulation system, utility line facilities, ingress and egress rights for the benefit of the Association in order for it to carry out its functions and duties and rights as set forth in the Declaration, and access rights in favor of all applicable governmental agencies for the maintenance, repair, and enforcement of their applicable duties or obligations with respect to the Properties. In order to effectuate its duties and responsibilities, inclusive, the Board may enter any Lot or Residence whenever entry is necessary in connection with the performance of any maintenance or construction which the Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than twenty-four (24) hours, except in emergency situations.

Section 12. Maintenance of Residences: There is reserved and granted to the Owner of each Lot and Residence and the Association, as dominant tenement, over and across each adjacent Lot and Residence, as servient tenement, a non-exclusive easement to enter the servient tenement upon reasonable notice to the Owner of the Servient tenement and at reasonable times for the purpose of maintaining portions of the Residence located on the dominant tenement, including walls, eaves, overhangs and appurtenances thereto adjacent to the servient tenement. Entry on the servient tenement shall be at times reasonably convenient to the Owner of the servient tenement and shall be limited solely for purposes of the maintenance or repair of the Residence on the dominant tenement. Such entry and maintenance shall be undertaken in such a manner as to protect the security of the servient tenement and all improvements thereon. The Owner of the dominant tenement and Association shall be responsible for seeing that no damage is caused to the Owner of the servient

tenement on his property by reason of the entry, and that the servient tenement is cleaned and left in the same condition following the entry as prior thereto.

Section 13. Drainage: Each Owner hereby covenants and agrees for himself, his heirs, assigns, vendees and successors in interest that he will refrain from interference with the established drainage pattern over his Lot or Residence from adjoining or other Lots or Residences, and make adequate provision for proper drainage from any such other Lot or Residence in the event the established drainage over his Lot or Residence is changed or altered. Declarant shall have the irrevocable right to enter into, upon, over or under the Properties, Common Area, Lots or Residences for the purposes of altering the grade, modifying contours, and/or correcting surface water drainage in order to maintain reasonable standards of health, safety, and appearance. For the purpose hereof, "established drainage" is defined as the drainage which will occur at the time the overall grading of Vineyards Subdivision, including each Lot, is completed.

Section 14. Special Utility Easement: In addition to all other easements and rights-of-way herein reserved, the Declarant reserves unto itself, the Association and their successors or assigns the right to erect, install and maintain telephone, electric light and cable television lines, conduits, and equipment and other utility structures or to grant easements or rights-of-way therefor, with the right of ingress to and egress from for the purposes of erection, installation or maintenance thereof, or, over or under a strip of land ten (10) feet wide at any point along the front and rear lines of all Lots within the Properties and along the side lines of the side yards of all Lots within the Properties that are provided with a side yard. In addition thereto easements for drainage facilities, easements and flood plain easements as shown on the recorded plat are reserved unto the Declarant and/or the Association, and/or their successors or assigns. Within all reserved easements, no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of or the flow of drainage channels in easements or which may obstruct or retard the flow of water through drainage channels in easements. The easement area of each Lot and Residence on it shall be maintained continuously by the Owner of the Lot, except those improvements for which the Association, a public authority or utility company is responsible. To the extent reasonably possible, utilities should be placed in the streets within the Subdivision.

Article XV General Provision

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Area, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Area subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by the then Owners of two-thirds (2/3) of the Units, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Prior to the conveyance of the first Lot, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may amend this Declaration so long as it still owns property described in Exhibits "A" and "B" for development as part of the Area, and so long as the amendment has no material adverse effect upon any right of any Owner. No amendment required by any state, federal or county agency or the Federal Home Loan Mortgage Corporation will be deemed material. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five (75%) percent of the total votes of the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Berkeley County, West Virginia.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision

in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may be made during the Declarant Class "B" Control Period without the written consent of Declarant or the assignees of such right or privilege. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to the Mortgagees herein without the prior written consent of such Mortgagees.

Section 3. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee member shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled.

Section 4. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Residence for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Residence to cure any condition which may increase the possibility of fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 6. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the association unless approved by a vote of seventy-five (75%) percent of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IX hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.


Section 7. Use of the Words "The Vineyards", "Vineyards", "Vineyards Subdivision" or "The Vineyards Homeowners Association". No person shall use the words "The Vineyards", "Vineyards", "Vineyards Subdivision" or "The Vineyards Homeowners Association" or any derivative thereof in any printed or promotional material without the proper written consent of the Declarant. However, Owners may use the terms "The Vineyards" or "The Vineyards Homeowners Association" in printed or promotional matters where such term is used solely to specify that particular property is located within The Vineyards.

Section 8. Security. The Vineyards Homeowners Association, will strive to maintain The Vineyards as a safe, secure residential environment. HOWEVER, NEITHER THE VINEYARDS HOMEOWNERS ASSOCIATION, NOR WHITMORE HOMES, INC. SHALL BE HELD LIABLE

FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE VINEYARDS HOMEOWNERS ASSOCIATION, INC. AND WHITMORE HOMES, INC., AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO RESIDENCES, AND TO THE CONTENTS OF RESIDENCES AND FURTHER ACKNOWLEDGE THAT WHITMORE HOMES, INC. HAS MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration of Covenants, Conditions, and Restrictions this 10th day of October, 2006.

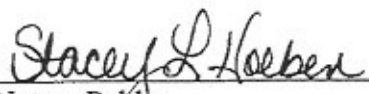
WHITMORE HOMES, INC., a West Virginia corporation

By 
Dewey H. Whitmore, Vice-President

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY, to-wit:

The foregoing instrument was acknowledged before me this 10th day of October, 2006, by Dewey H. Whitmore, Vice-President of Whitmore Homes, Inc., a West Virginia corporation, in my said County and State.


Notary Public

My commission expires: Dec. 9, 2012



Prepared by Kenneth J. Barton, Jr., Attorney at Law, Steptoe & Johnson PLLC, 126 East Burke Street, Martinsburg, WV 25401.

Exhibit "A"

Situate in Arden District, Berkeley County, West Virginia:

"Lot Nos. 1 through 100, The Vineyards, as more fully shown upon a plat thereof prepared by William H. Gordon Associates, Inc. dated April 3, 2006 and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia in Plat Cabinet No. 12, at Slides 143, 144 and 145."

Exhibit "B"

Situate in Arden District, Berkeley County, West Virginia:

Parcel One:

"All that certain lot or parcel of real estate containing 10.000 acres, more or less, as shown more particularly on a plat prepared by G.V. Hafer, dated December 13, 1985, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 396, at page 530, to which reference is hereby made for a more particular description of the real estate herein conveyed."

Parcel Two:

"All that certain lot or parcel of real estate containing 10.001 acres, more or less, as shown more particularly on a plat prepared by G.V. Hafer, dated January 28, 1986, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 398, at page 284, to which reference is hereby made for a more particular description of the real estate herein conveyed."

Parcel Three:

"All that certain lot or parcel of real estate containing 10.000 acres, more or less, as shown more particularly on a plat prepared by G.V. Hafer, dated December 29, 1986, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 412, at page 234, to which reference is hereby made for a more particular description of the real estate herein conveyed."

Parcel Four:

Residue Parcel R.E. Lutz, containing 9.35 acres, more or less, as set forth on a plat prepared by G.V. Hafer, dated December 29, 1986, and recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 412, at page 234, to which reference is hereby made for a more particular description of the real estate herein conveyed. Further described as 10.974 acres, Drains Opequon, Arden District, Tax Map 6, Parcel 19."

Exhibit "C"

BY-LAWS
OF
THE VINEYARDS HOMEOWNERS ASSOCIATION, INC.

Kenneth J. Barton, Jr.
STEPTOE & JOHNSON, PLLC

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BY-LAWS
OF
THE VINEYARDS HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

Section 1. Name. The name of the Association shall be The Vineyards Homeowners Association, Inc., (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of West Virginia shall be located in Berkeley County. The Association may have such other offices, either within or outside the State of West Virginia, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for The Vineyards (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

Article II
Association: Membership, Meetings, Quorum, Voting, Proxies

Section 1. Membership. The Association shall have two (2) classes of Membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference. So long as the Declarant owns any lots for resale it shall have the right to unilaterally make all decisions for the Association without consulting the Members.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

Section 3. Annual Meetings. The first meeting of the Association, whether a regular or special meetings, shall be held within one (1) year from the date of incorporation of the Association. There shall be an annual meetings of Members for the purpose of electing Directors. Subsequent regular annual meetings shall be set by the Board so as to occur at least ninety (90) but not more than one hundred twenty (120) days before the close of the Association's fiscal year on a date and at a time set by the Board of Directors.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Members representing at least ten (10%) percent of the total votes of the Association. The notice of any special meetings shall state the date, time, and place of such meetings and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of the meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 6. Waiver of Notice. Waiver of notice of a meeting of the Member shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any such meeting. Attendance at a meeting by a Member or proxy shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting at a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that Members or their proxies representing at least twenty-five (25%)

percent of the total votes of the Association remain in attendance, and provided further that any action taken is approved by at least a majority of the Members required to constitute a quorum.

Section 8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein. If a Member is delinquent in the payment of any Assessments or other fees to the Association, such Member's voting rights shall be suspended until such delinquency, late charges or other fees are paid to the Association.

Section 9. Proxies. Members may vote by proxy. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months and every proxy shall automatically cease and terminate upon sale by the Member of his Residence or other interest in the Properties.

Section 10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

Section 11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of the Member at a meeting for matters upon which Members vote representing a majority of the total votes in the Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorum is specifically incorporated herein.

Section 12. Conduct of Meetings. The President shall preside over all the meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meetings, as well as a record of all transactions occurring at the meeting.

Section 13. Actions Without A Meeting. Any action required by law to be taken at a meeting of the Members, or any action taken at a meeting of the Members, may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Members.

Article III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Except with respect to the directors appointed by the Declarant, the directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of

an Owner which is a corporation, partnership, or other entity, the person designated in writing to the secretary of the Association as the representative of such corporation, partnership, or other entity shall be eligible to serve as a director.

Section 2. Directors During Declarant Control. So long as Declarant owns lots for resale, the Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until the first to occur of the following:

(a) when those Lots permitted by the Declaration for the property described on Exhibits "A" and "B" of the Declaration have been conveyed to Persons other than the Declarant or builders holding title solely for purposes of development and sale;

(b) December 31, 2021; or

(c) when, in its discretion, the Declarant so determines.

This Section 2 may not be amended without the express, written consent of the Declarant, so long as it owns Lots for resale.

Section 3. Right to Disapprove Actions. This Section 3 may not be amended without the express, written consent of the Declarant so long as it owns Lots for resale.

So long as the Declarant owns Lots for resale, it shall have a right to disapprove actions of the Board and the Architectural Review Committee, as is more fully provided in this Section. This right shall be exercisable only by the Declarant, its successors, and assigns who specifically take this power in a recorded instrument. The right to disapprove shall be as follows:

No action authorized by the Board of Directors or Architectural Review Committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meeting with Article III, Sections 8, 9, and 10, and these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representative or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee thereof, or the Association. The Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Declarant shall have and is hereby granted

a right to disapprove any such action, policy, or program authorized by the Board of Directors or any committee thereof and to be taken by the Board, such committee, the Association, or any individual member of the Association, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Declarant, its representative, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right of disapproval to require a reduction in the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable law and regulations.

Section 4. Number of Directors. The number of directors in the Association shall not be less than three (3) nor more than nine (9), as provided in Section 6 below. The initial Board shall consist of three (3) members as identified in the Articles of Incorporation.

Section 5. Nomination of Directors. Except with respect to directors selected by the Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 6. Election and Term of Office. Notwithstanding any provision contained herein:

(a) Within thirty (30) days after termination of the Declarant Control Period, the Association shall call a special meeting at which Members other than the Declarant shall elect up to nine (9) directors. The initial board shall serve until the first annual meeting following the termination of the Declarant Control Period. At the discretion of the Declarant, a board may be appointed sooner than specified herein.

(b) At the first annual meeting of the membership after the termination of the Declarant Control Period the Members shall elect nine (9) directors. Three (3) directors shall be elected to serve a term of three (3) years; three (3) directors shall be elected to serve a term of two (2) years and three (3) directors shall be elected to serve a term of one (1) year. Upon the expiration of the initial term of office of each such director, a successor shall be elected to serve a term of three (3) years. Thereafter, all directors shall be elected to serve three (3) year terms. For the purpose of the election of directors, each Members hall have one (1) equal vote, for each Lot or Residence owned by a Member.

At any election of directors, each Member shall be entitled to cast one (1) equal vote for each Lot or Residence owned by said Member with respect to each vacancy to be filled. The candidates receiving the largest number of votes shall be elected. The Directors elected by the Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

Section 7. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. A director who was elected solely by the votes of the Members other than the Declarant may be removed from office prior to the expiration of his or her term only by the votes of a majority of Members other than the Declarant. Upon removal of a director, a successor shall then and there be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor. Any director appointed by the Board shall serve for the remainder of the term of the director who vacated the position.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any three (3) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (d) by telephone communication, either directly to the director or to a person at the director's office or home who

would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting of each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time no less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings. Meetings may be conducted by telephone and shall be considered as any other meeting, provided all directors are able through telephone connection to hear and to be heard.

Section 15. Open Meetings. Subject to the provisions of Section 16 of this Article, all meetings of the Board shall be open to all Members, but Members other than the directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak.

Section 16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

Section 17. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs, and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between the meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Lot or Residence's proportionate share of the Common Expenses shall be payable in annual installments, each such installment to be due and payable in advance on the first day of second month following the assessment date;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Common Area;
- (d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Common Area, where appropriate, providing for the compensation for such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

- (f) making and amending rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Declaration, these By-laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;
- (l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- (m) making available to any prospective purchaser of a Lot or Residence, any Owner of a Lot or Residence, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Residence, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Lot or Residence and all other books, records, resale certificates and financial statements of the Association; and
- (n) permitting utility suppliers to use portions of the Common Area reasonable necessary to the ongoing development or operation of the Properties.

Section 18. Management Agent.

- (a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 17 of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days or less written notice.

Section 19. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agents from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association; provided nothing herein shall prohibit the managing agent from earning commissions for services provided by the managing agent in leasing Residences on behalf of the Owners of such Residences;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Lot is sold and closed, financial reports shall be prepared for the Association at least annually containing;

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the 1st day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying the annual installments of assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (An annual installment of assessment shall be considered to be delinquent on the thirtieth (30th) day following the assessments designated due date unless otherwise determined by the Board of Directors); and

(g) an annual report consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year; (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of charges in financial position for the fiscal year.

Section 20. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, or restoration of the Common Area without the approval of the Members of the Association. The Board shall also have the power to borrow money for other purposes; provided, the board shall obtain sixty-seven percent (67%) of the Membership approval at a Regular or Special Meeting in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year. Notwithstanding anything to the contrary contained in the Declaration, these By-laws, or the Articles of Incorporation, during the Declarant Control Period, no Mortgage lien shall be placed on any portion of the Common Area

Section 21. Rights of the Association. With respect to the Common Area, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Such agreements shall require the consent of majority of all Directors of the Association.

The Association shall not be bound, either directly or indirectly, by any contract, lease, or other agreement (including any management contract) executed during the Declarant Control Period unless such contract, lease or other agreement contains a right of termination exercisable by either party without penalty at any time, with or without cause, upon not more than ninety (90) days notice to the other party.

Section 22. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot or Residence. In the event that any occupant of a Lot or Residence violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall be assessed against the Owner who shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rules or regulations shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator and/or Owner written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a

challenge is begun within ten (10) days of the notice. If a timely challenge is not made by the Owner, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the imposition of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of deliver, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the Owner appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors or the Architectural Review Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Appeal. Following a hearing before the Architectural Review Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provisions of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Article IV Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of the President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office

arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

Article V Committees

Section 1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Architectural Review Committee. In addition to any other committees which may be established by the Board pursuant to Section 1 of this Article, the Board of Directors may appoint a Architectural Review Committee consisting of at least three (3) and no more than seven (7) members. Acting in accordance with the provisions of the Declaration, these By-laws, and resolutions the Board may adopt, the Architectural Review Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings pursuant to Article III, Section 22 of these By-Laws.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 2. Parliamentary Rules. Except as may be modified by Board Resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with West Virginia law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts between the provisions of West Virginia law, the Articles of Incorporation, the Declaration, and these By-Laws and any Rules or Regulations, the provision of West Virginia law, the Declaration, the Articles of Incorporation, and the By-Laws and the Rules or Regulations (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration and By-laws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the costs of reproducing copies of documents requested.

(c) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demand, bills, statements, or other communication under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Residence of such Member; or

(b) if to the Association, the Board of directors, or the managing agent, at the principal office of the Association, or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 6. Amendment. Prior to the conveyance of the first Lot, Declarant may unilaterally amend these By-Laws. After such conveyance, the Declarant may unilaterally amend these By-Laws so long as it still owns property described in Exhibits "A" and "B" to the Declaration for development as part of the Properties and so long as the amendment has no material adverse effect upon any right of any Member. Thereafter and otherwise, these By-Laws may be amended only by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Voting Members representing seventy-five (75%) percent of the total votes of the Association, including seventy-five (75%) percent of the votes held by Members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment shall be effective until recorded in the public records of Berkeley County, West Virginia.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien or any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

CERTIFICATION

I, the undersigned, to hereby certify:

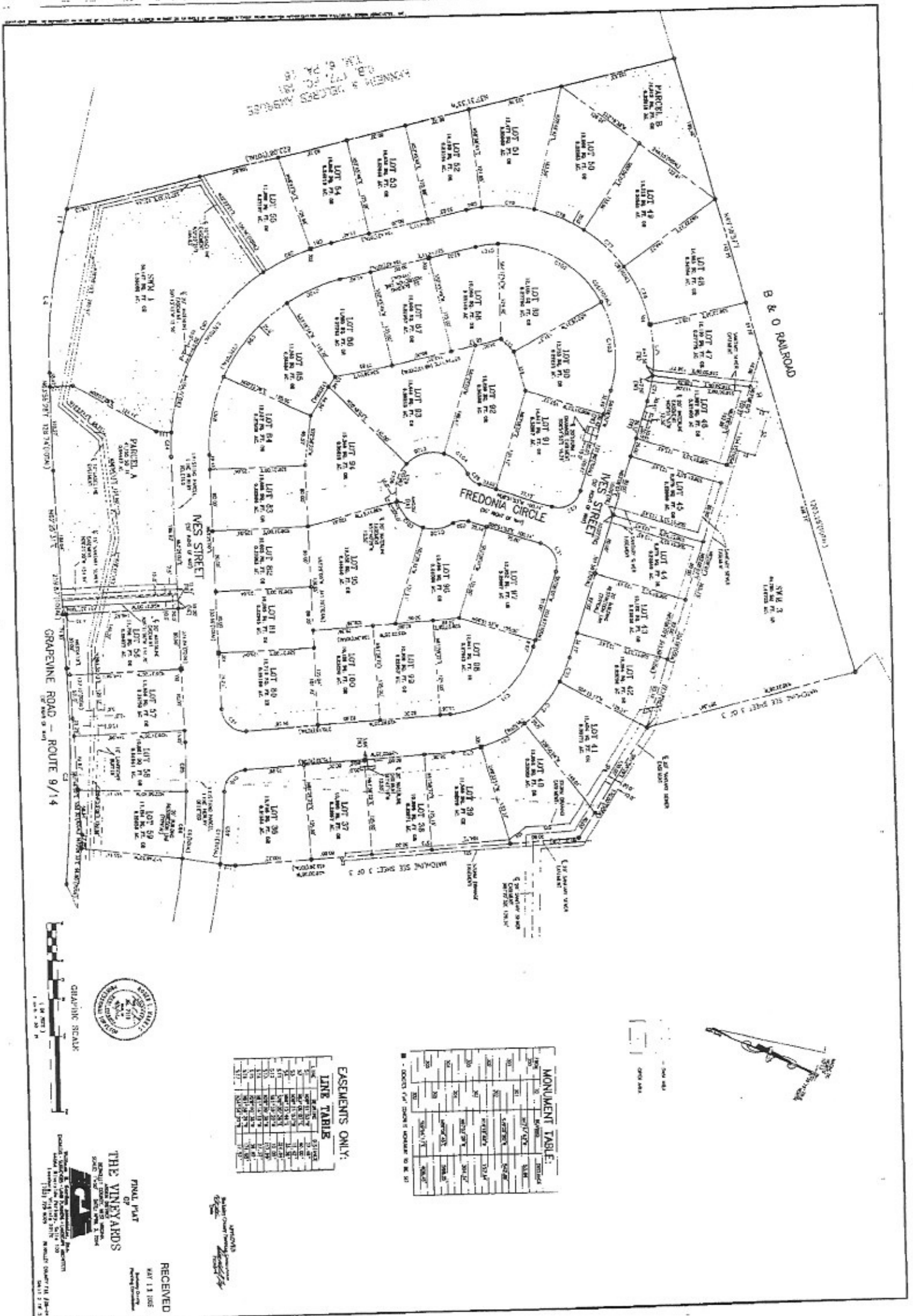
That I am the duly elected and acting Secretary of Homeowners Association, Inc., a West Virginia corporation;

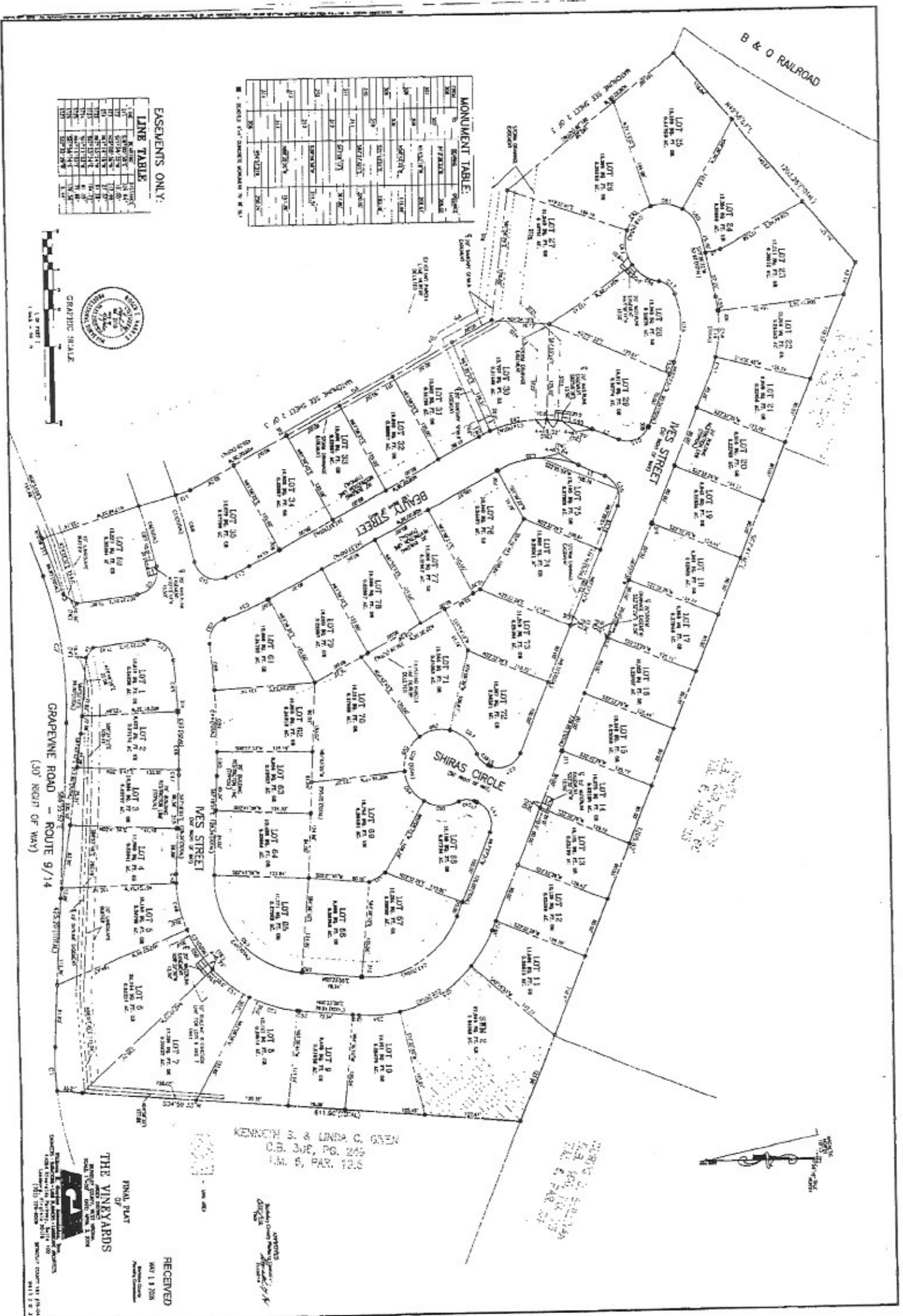
The foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the ____ day of _____, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, 2006.

Dewey H. Whitmore

Exhibit "D"





MONUMENT TABLE:

LOT	ACRES	FRONT	REAR	SIDE	AREA
1	0.10	100.00	100.00	100.00	100.00
2	0.10	100.00	100.00	100.00	100.00
3	0.10	100.00	100.00	100.00	100.00
4	0.10	100.00	100.00	100.00	100.00
5	0.10	100.00	100.00	100.00	100.00
6	0.10	100.00	100.00	100.00	100.00
7	0.10	100.00	100.00	100.00	100.00
8	0.10	100.00	100.00	100.00	100.00
9	0.10	100.00	100.00	100.00	100.00
10	0.10	100.00	100.00	100.00	100.00
11	0.10	100.00	100.00	100.00	100.00
12	0.10	100.00	100.00	100.00	100.00
13	0.10	100.00	100.00	100.00	100.00
14	0.10	100.00	100.00	100.00	100.00
15	0.10	100.00	100.00	100.00	100.00
16	0.10	100.00	100.00	100.00	100.00
17	0.10	100.00	100.00	100.00	100.00
18	0.10	100.00	100.00	100.00	100.00
19	0.10	100.00	100.00	100.00	100.00
20	0.10	100.00	100.00	100.00	100.00
21	0.10	100.00	100.00	100.00	100.00
22	0.10	100.00	100.00	100.00	100.00
23	0.10	100.00	100.00	100.00	100.00
24	0.10	100.00	100.00	100.00	100.00
25	0.10	100.00	100.00	100.00	100.00
26	0.10	100.00	100.00	100.00	100.00
27	0.10	100.00	100.00	100.00	100.00
28	0.10	100.00	100.00	100.00	100.00
29	0.10	100.00	100.00	100.00	100.00
30	0.10	100.00	100.00	100.00	100.00
31	0.10	100.00	100.00	100.00	100.00
32	0.10	100.00	100.00	100.00	100.00
33	0.10	100.00	100.00	100.00	100.00
34	0.10	100.00	100.00	100.00	100.00
35	0.10	100.00	100.00	100.00	100.00
36	0.10	100.00	100.00	100.00	100.00
37	0.10	100.00	100.00	100.00	100.00
38	0.10	100.00	100.00	100.00	100.00

EASEMENTS ONLY:

LOT	ACRES	FRONT	REAR	SIDE	AREA
1	0.10	100.00	100.00	100.00	100.00
2	0.10	100.00	100.00	100.00	100.00
3	0.10	100.00	100.00	100.00	100.00
4	0.10	100.00	100.00	100.00	100.00
5	0.10	100.00	100.00	100.00	100.00
6	0.10	100.00	100.00	100.00	100.00
7	0.10	100.00	100.00	100.00	100.00
8	0.10	100.00	100.00	100.00	100.00
9	0.10	100.00	100.00	100.00	100.00
10	0.10	100.00	100.00	100.00	100.00
11	0.10	100.00	100.00	100.00	100.00
12	0.10	100.00	100.00	100.00	100.00
13	0.10	100.00	100.00	100.00	100.00
14	0.10	100.00	100.00	100.00	100.00
15	0.10	100.00	100.00	100.00	100.00
16	0.10	100.00	100.00	100.00	100.00
17	0.10	100.00	100.00	100.00	100.00
18	0.10	100.00	100.00	100.00	100.00
19	0.10	100.00	100.00	100.00	100.00
20	0.10	100.00	100.00	100.00	100.00
21	0.10	100.00	100.00	100.00	100.00
22	0.10	100.00	100.00	100.00	100.00
23	0.10	100.00	100.00	100.00	100.00
24	0.10	100.00	100.00	100.00	100.00
25	0.10	100.00	100.00	100.00	100.00
26	0.10	100.00	100.00	100.00	100.00
27	0.10	100.00	100.00	100.00	100.00
28	0.10	100.00	100.00	100.00	100.00
29	0.10	100.00	100.00	100.00	100.00
30	0.10	100.00	100.00	100.00	100.00
31	0.10	100.00	100.00	100.00	100.00
32	0.10	100.00	100.00	100.00	100.00
33	0.10	100.00	100.00	100.00	100.00
34	0.10	100.00	100.00	100.00	100.00
35	0.10	100.00	100.00	100.00	100.00
36	0.10	100.00	100.00	100.00	100.00
37	0.10	100.00	100.00	100.00	100.00
38	0.10	100.00	100.00	100.00	100.00



KENNETH S. & LINDA C. GREEN
C.B. 306, PG. 246
L.M. S. PAR. 12.6

FINAL PLAT
OF
THE VINEYARDS
PLAT 1306
RECEIVED
MAY 13 2006
COUNTY OF PRINCE GEORGE'S
OFFICE OF THE SURVEYOR

BERKELEY COUNTY, WV

FILED

October 11, 2006 10:21:16

JOHN W. SMALL JR.

COUNTY CLERK

TRANSACTION NO: 2006037425

BOOK OF DEEDS

Book: 00850 Page: 00001



13700

THIS SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 14th day of February, 2008, by WHITMORE HOMES, INC., a West Virginia corporation, hereinafter called "Declarant".

WITNESSETH:

WHEREAS, by a Deed of Declaration of Covenants, Conditions and Restrictions, dated October 10, 2006, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia, in Deed Book No. 850, at page 00001, (hereinafter called "Deed of Declaration"), Declarant subjected certain real property known as The Vineyards to all of the rights, reservations, restrictions, covenants, conditions, easements, rights-of-ways, liens, charges and assessments more fully set forth in said Deed of Declaration; and

WHEREAS, said Deed of Declaration provided in Article XIII, thereof that Declarant shall be permitted to amend, modify and otherwise change this Declaration and the Covenants and Restrictions as necessary in Declarant's sole discretion to complete the development of the subdivision; and

WHEREAS, said Deed of Declaration provided in Article XV, Section 2 further states that Declarant may amend this Declaration so long as it still owns property described in Exhibits "A" and "B" for development as part of the Area and so long as the amendment has no material adverse effect upon any right of any Owner. Authorized amendments shall be made by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, the Declarant herein desires at this time to amend the Covenants, Conditions and Restrictions of said Deed of Declaration,

NOW, THEREFORE, the Declarant declares that Article XI (w) 2. shall be amended to read as follows:

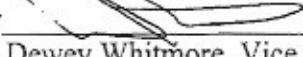
"Residence Sizes: All buildings on any Lot designated for a single-family, single-level structure shall contain a minimum of 1,000 square feet. All single family, detached two-story structures shall contain a minimum of 1,200 square feet. Dimensions stated shall be exterior wall dimensions excluding basements, garages, decks, porches, eaves and other similar extensions and overhangs."

The above described amended Covenants, Conditions and Restrictions are for the purpose of protecting the values and amenities in The Vineyards and all of the rights, reservations, restrictions, covenants, conditions, easements, rights-of-ways, liens, charges and assessments shall run with the real property and be binding on all parties having any right, title or interest in the property referenced by Exhibits "A" and "B" or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

WITNESS the corporate name and seal of the said corporation and the signature of its Vice President hereto affixed this 14th day of February, 2008.

(CORPORATE SEAL)

WHITMORE HOMES, INC.
a West Virginia corporation

By 
Dewey Whitmore, Vice President

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY, to-wit:

I, T. Elaine McConnohie, a Notary Public in and for said County and State, do hereby certify that Dewey Whitmore, its Vice President, who signed the writing above for Whitmore Homes, Inc., a West Virginia corporation, bearing date the 14th day of February, 2008, has this day acknowledged the same before me in my said County to be the act and deed of said corporation.

Given under my hand this 14th day of February, 2008.

T. Elaine McConnohie
Notary Public

My commission expires:

September 16, 2012



BERKELEY COUNTY, WV

FILED

April 23, 2008 15:37:22

JOHN W. SMALL JR.

COUNTY CLERK

TRANSACTION NO: 2008013700

BOOK OF DEEDS

Book: 00896 Page: 00495



This instrument was prepared by Heather Dern Myers, Attorney, 1250 Edwin Miller Blvd. Suite 300, Martinsburg, WV 25404.

**AFFIDAVIT OF THE VINEYARDS HOMEOWNERS
ASSOCIATION, INC.'S PRESIDENT**

STATE OF WEST VIRGINIA
COUNTY OF BERKELEY, to-wit:

LARRY R. SLATER, by me being first duly sworn upon his oath, deposes and states as follows:

1. That he resides at 203 Ives Street, Martinsburg, Berkeley County, West Virginia 25405.

2. That he is the duly elected president of The Vineyards Homeowners Association, Inc. ("HOA").

3. That The Vineyards is a residential subdivision situate in Arden District of Berkeley County, West Virginia, comprised of one hundred (100) residential subdivision lots.

4. That according to the Declaration of Covenants, Conditions and Restrictions for The Vineyards dated October 10, 2006 ("Declaration"), appearing of record in the Office of the Clerk of the County Council of Berkeley County, West Virginia, in Deed Book 850, at page 1, *et seq.*, Article XV, Section 1, the Declaration cannot be amended unless there is a 75% vote of the members of the Association (DB 850/PG 29).

5. That he has been tasked by the Board of Directors of the HOA to canvas and obtain votes to ascertain whether the membership of the HOA desires to amend certain covenants and restrictions contained in the above Declaration, and the following has taken place by written vote of the members of the Association:

a. Article XI, Section 2, Subsection (b) – Property Maintenance (DB 850/PG 18), reads as follows:

Each owner shall keep their residence in a safe, clean, neat, and well maintained condition, and shall comply with all applicable safety, health, police and fire department requirements. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building material shall be permitted to remain exposed on any Residence except as necessary during the construction period. Rubbish, leaves, and trash shall not be disposed of in the properties by burning in open fires or incinerators. All trash and garbage cans or receptacles shall be stored out of view from neighboring residences, roads, or streets, except at times of scheduled garbage or trash pickup.

By a vote of 78 in favor out of 100 votes, that provision is amended to read as follows:

Each owner shall keep their residence in a safe, clean, neat, and well maintained condition, and shall comply with all applicable safety, health, police and fire department requirements. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building

material shall be permitted to remain exposed on any residence except as necessary during the construction period. Rubbish, leaves, and trash shall not be disposed of in the properties by burning in open fires or incinerators. All trash and garbage cans or receptacles shall be stored away from the front of residences except at times of scheduled garbage or trash pickup.

b. Article XI, Section 1, Subsection (f) – Parking (DB 850/PG 19), reads as follows:

General Parking Rules. Each Residence shall provide an off street parking area for at least two (2) 6' X 18' vehicles. All driveways shall be black topped or concreted and shall include at the street entrance an appropriate drainage culvert or depression as needed. Except for temporary and unusual irregular overflow parking from the garage and driveway of any Residence, no parking shall be permitted on any street or road within the Properties. No Owner shall park on a regular or continuing basis more than two (2) registered vehicles at the Residence, other than inside any improvement thereon. No camping trailers, boat trailers, mobile homes, campers, boats, nor travel trailers may be parked or stored in the Properties. All garages, carports and parking areas must receive approval by the Architectural Review Committee pursuant to the terms of Article X. Truck type tractors are not permitted at any dwelling. No vehicles with a Gross Vehicle Weight of 15,000 lbs. or more shall be permitted at any dwelling. Subject to such Rules, Regulations and Fines adopted by the Association, a recreational vehicle, boat, trailer or motor home may be parked on the driveway of a Residence for a period of not to exceed three (3) consecutive days for the purpose of and the sole purpose of preparing the vehicle for a trip. No Member may park such a vehicle for such purposes more than six (6) times in any calendar year.

By a vote of 83 in favor out of 100 votes, that provision is amended to read as follows:

General Parking Rules. Each residence shall provide an off street parking area for at least two (2) 6'X18' vehicles. All driveways shall be black topped or concreted and shall include at the street entrance an appropriate drainage culvert or depression as needed. Except for temporary and unusual irregular overflow parking from the garage and driveway of any residence, no parking shall be permitted on any street or road within the properties. No owner shall park unregistered vehicles at the residence other than inside any improvement thereon. No camping trailers, boat trailers, mobile homes, campers, boats, nor travel trailers may be parked or stored in the properties. All garages, carports and parking areas must receive approval by the Architectural Review Committee pursuant to the terms of Article X. Truck type trailers are not permitted at any dwelling. No vehicles with a gross vehicle weight of 15,000 lbs. or more shall be permitted at any dwelling. Subject to such rules, regulations and fines adopted by the Association, a recreational vehicle, boat, trailer or motor home may be parked on the driveway of a residence for a period of not to exceed three (3) consecutive days for the purpose of and the sole purpose of preparing the vehicle for a trip. No member may park such a vehicle for such purposes more than six (6) times in any calendar year.

c. Article XI, Section 2, Subsection (h) – Utility Building (DB 850/PG 19-20), reads as follows:

One Utility Building shall be permitted to be placed upon a Lot containing a detached single family dwelling subject to the foregoing conditions and setback requirements contained in Section 1 hereunder. A Utility Building shall be no smaller than ten (10) feet by ten (10) feet and shall be no larger than twelve (12) feet by twenty-four (24) feet, and shall not be higher on the side wall than eight (8) feet from the finished floor to the base of the roof and fourteen (14) feet from the base of the finished floor to the peak of the roof. A

Utility Building shall be subject to approval by Architectural Review in Article X herein prior to the construction of the same and shall conform to exterior finish materials of the residence. "Umbrella-type" clotheslines shall be permitted at single family detached residences.

By a vote of 84 in favor out of 100 votes, that provision is amended to read as follows:

One Utility Building shall be permitted to be placed upon a Lot containing a detached single family dwelling subject to the foregoing conditions and setback requirements contained in Section 1 hereunder. A Utility Building shall be no larger than twelve (12) feet by twenty-four (24) feet, and shall not be higher on the side wall than eight (8) feet from the finished floor to the base of the roof and fourteen (14) feet from the base of the finished floor to the peak of the roof. A Utility Building shall be subject to approval by Architectural Review in Article X herein prior to the construction of the same and shall conform to exterior finish materials of the residence. "Umbrella-type" clotheslines shall be permitted at single family detached residences.

d. Article XI, Section 2, Subsection (p) – Mailboxes (DB 850/PG 21), reads as follows:

The Architectural Review Committee may determine the location, color, size, design, lettering, and all of the particulars of all mail or paper delivery boxes, and standards and brackets and name signs for the boxes in order that the area be strictly uniform in appearance with respect to these items.

By a vote of 85 in favor out of 100 votes, that provision is amended to read as follows:

All mailboxes must meet United States Postal Service codes and regulations.

e. Article XI, Section 2, Subsection (v) – Fences (DB 850/PG 22), reads as follows:

Unless otherwise designated by plat depiction or notation, fencing shall be constructed only in rear yards, beginning at the corner of the house, following side lot lines and along rear lot lines. No solid fences shall be permitted on said lots with the exception of those immediately surrounding pool area. Such swimming pool fences may be up to six (6) feet in height. Any other fences, including but not limited to, non-solid fences, shall not exceed forty-eight (48) inches in height. Chain link, American Wire and Barbed Wire fences are entirely strictly prohibited. All fences must be approved by the Architectural Review Committee pursuant to Article X. All fences must be constructed of pressure treated lumber or pre-finished vinyl. Permitted fencing may be built within setback areas so long as they meet other requirements of this Declaration.

By a vote of 77 in favor out of 100 votes, that provision is amended to read as follows:

Unless otherwise designated by plat depiction or notation, fencing shall be constructed only in rear yards, beginning at the mid-point of the house towards the rear, following side lot lines and along rear lot lines. Permitted fencing may be built within setback areas so long as they meet other requirements of this Declaration. All permitted fencing shall not exceed seventy-two (72) inches in height. Chain Link, American Wire and Barbed Wire fences are strictly prohibited. All fences must be approved by the Architectural Review Committee pursuant to Article X. All fences must be constructed of pressure treated lumber or pre-finished vinyl. The owner shall maintain proper maintenance of any installed fencing throughout ownership. This includes, but is not limited to, damage repair and stain.

f. Article XI, Section 2, Subsection (z) – Swimming Pools (DB 850/PG 24), reads as follows:

No above-ground swimming pools shall be erected, constructed or installed on any Lot. In-ground swimming pools may be erected, constructed or installed on any Lot that contains a single family detached home. All swimming pools must be approved pursuant to Article X.

By a vote of 76 in favor out of 100 votes, that provision is amended to read as follows:

Swimming pools may be erected, constructed or installed on the rear of any Lot that contains a single family detached home. All swimming pools must have a fence surround and be approved to Article X.

g. Article XI, Section 2, Subsection (dd) – General Storage (DB 850/PG 24), reads as follows:

All permitted personal property, including but not limited to garbage containers, grills, bicycles, toys, yard equipment, lawn mowers, and all other household personal property shall be stored within the home or garage upon each Lot, or a permitted Utility Building.

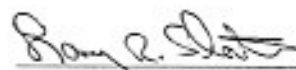
By a vote of 80 in favor out of 100 votes, that provision is amended to read as follows:

All permitted personal property, including but not limited to bicycles, toys, yard equipment, lawn mowers and all other household personal property shall be stored within the home or garage upon each lot, or a permitted utility building.

6. That he has kept all of the original ballots from all of the members of the Association who voted on these amendments, and he is directing the Secretary to place them among the permanent records of the HOA.

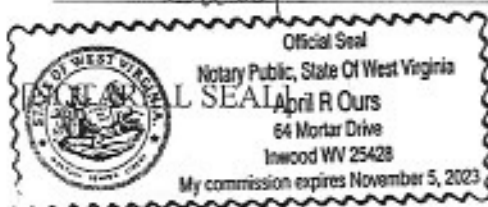
7. These Amended Declarations of Covenants, Conditions and Restrictions are to be effective immediately.

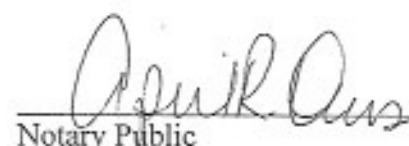
AND FURTHER SAITH THE AFFILIANT NAUGHT.



Larry R. Slater, President of The Vineyards Homeowners Association, Inc.

Taken, subscribed and sworn to before me the undersigned authority, this 16th day of July, 2018.




Notary Public

My commission expires: Nov. 5, 2023

This Affidavit was prepared by: Michael L. Scales, Esq. of the law firm of Michael L. Scales, PLLC, 314 W. John Street, Martinsburg, WV 25401, (304) 263-0000, WV Bar No. 3277.