

**DECLARATION OF RESTRICTIONS, PROTECTIVE COVENANTS
AND RESERVATIONS PERTAINING TO
CROSSING ON THE MIDDLE FORK SUBDIVISION
IN UNION DISTRICT, UPSHUR COUNTY, WEST VIRGINIA**

THIS DECLARATION, made this 5th day of April, 2007, by Appalachian Land Development, LLC, a West Virginia limited liability corporation, hereinafter referred to as "DECLARANT."

WHEREAS, Declarant is the owner of tracts of parcels of real estate situate in Union District, Upshur County, West Virginia, a portion of which is being developed into a single family residential subdivision entitled "Crossing on the Middle Fork Subdivision," which has been subdivided into numbered lots on that certain plat identified as "Crossing on the Middle Fork Subdivision," which plat is to be recorded in the Office of the Clerk of the County Commission of Upshur County, West Virginia, and is made a part hereof and incorporated herein by reference: and

WHEREAS, Declarant is ready to sell and convey the residential lots, but before doing so desires to subject them to and impose upon them mutual and beneficial restrictions, covenants and conditions, and charges hereinafter referred to as "Restrictions," under a general plan or scheme of improvements and protection for the benefit and complement of all the lots in the Crossing on the Middle Fork Subdivision, and the present and future owners of said lots; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said subdivision, and in addition thereto, to form a homeowners association to which shall be delegated and assigned the powers of maintaining and administering the subdivision road and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereafter created.

NOW, THEREFORE, Declarant hereby declares that all of said lots are held and shall be held, conveyed, encumbered, used, occupied and improved, subject to the following restrictions, all of which are declared and agreed to be in furtherance of a plan for Cross on the Middle Fork Subdivision, improvement and sale of said lots or parcels

therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the property described and delineated upon the Plat of Crossing on the Middle Fork Subdivision. All of the restrictions shall run with the land and shall be binding upon the Declarant and upon all parties having or acquiring any right title or interest in and to the real property or any part or parts thereof, subject to such restrictions, and all persons claiming under them until January 1, 2027. By accepting a deed to residential property subject to these Restrictions, Protective Covenants and Reservations, the residential owners, their heirs or assign agree that after January 1, 2027 these Restrictions shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded agreeing to change the covenants in whole or in part; provided, however, that at any time before January 1, 2027 these Restrictions may be amended by vote of the then record owners of two-thirds (2/3) of such residential lots, and thereafter by a majority of said owners, except as otherwise provided, herein.

1. It is expressly understood and agreed that original lot purchasers, their heirs, assigns or transferees shall not subdivide or reduce in size the lot, tract or parcel of land purchased in Crossing on the Middle Fork Subdivision.
2. It is expressly understood and agreed that each lot, tract or parcel of land purchased in Crossing on the Middle Fork Subdivision shall be used for residential purposes only and shall be used for a single family dwelling only and that only one dwelling shall be erected or constructed on said lot.
3. All buildings shall be on standard brick, stone, or frame exterior construction and should compliment the natural surroundings and shall be subject to the following limitations:
 - a. A one (1) floor dwelling shall have a minimum finished living area of twelve hundred (1,200) square feet (living area excludes basements, garages, decks, porches & patios).
 - b. A one and one-half story dwelling shall have a minimum finished first floor area of ten hundred (1,000) square feet, and the second floor area shall be finished.

- c. A two story dwelling shall have a minimum finished first floor area of eight hundred (800) square feet, and the second floor shall be finished.
 - d. A split level dwelling shall have a minimum of twelve hundred (1,200) square feet of finished living area in the two opposite levels.
 - e. Any and all garages, attached or unattached, appurtenant to the dwelling shall be finished on the outside of the same or equal material as the main residence and shall blend with the main residence in appearance and architecture. Other outbuildings shall be constructed so as to be sightly and so as to not be a nuisance.
 - f. Each lot used for the construction of a single-family detached dwelling shall provide adequate off-street parking. Parking shall be prohibited on the 30-foot road and right-of-ways serving Crossing on the Middle Fork Subdivision.
 - g. All utility service lines from the distribution line to the buildings on said lot shall be placed underground.
4. It is further understood and agreed that the house plans for the initial dwelling house proposed to be constructed or erected on each lot of said subdivision shall be submitted to the said Appalachian Land Development, LLC, or its authorized representative, in advance of commencement of any construction, for evaluation, review and written approval by the said Appalachian Land Development, LLC, as to cost of construction of the dwelling house proposed to be built, to determine compliance with the provisions of article "3" herein.
5. It is further understood that no trailer, mobile home or motor home shall be erected or placed on the lot herein conveyed as a permanent structure. However, camping trailers and recreational vehicles maybe used for recreational purposes only and cannot be left unattended for more than thirty (30) days.
6. Once construction of the residential dwelling is commenced on any lot, the improvements must be substantially completed, including the exterior work, in accordance with its plans and specifications, as approved, within twelve

(12) months. The lot must be graded and landscaped within one (1) year after the substantial completion of the dwelling house.

7. No residence shall be occupied until the same has been substantially completed.
8. Appalachian Land Development, LLC, reserves unto itself and to Crossing on the Middle Fork Subdivision Homeowners Association and their respective assigns, a right-of-way and easement five (5) feet in width inside along and on each and every boundary line of each and every lot if Crossing on the Middle Fork Subdivision for the installation, maintenance, repair, replacement and removal of utilities as deemed necessary and desirable by said Appalachian Land Development, LLC, or said Homeowners Association. No building is permitted within ten (10) feet of the exterior boundary line.
9. No structure of a temporary character, trailer, basement, tent, barn or garage shall be used at any time as a residence, either temporarily or permanently.
10. If at any time the owners of a least seventy-five percent (75%) of the frontage on any subdivision roadway shown on said plat shall elect to repave, repair, or otherwise improve said subdivision roadway, the cost thereof shall be borne equally by lot owner, and said costs shall be a lien against said property.
11. The fuel used in the dwelling or other structures shall be of the smokeless type, however, so-called fireplaces or wood burners which wood is used as a fuel shall be excepted from this provision. However, no outside burners shall be permitted for the purpose of primarily heating the dwelling. Camp fires, fire pits and barbeques are permitted if the fire is within a suitable containment.
12. No animals or livestock of any description, except the usual household pets, shall be kept on any lot, and those pets that are kept upon any lot shall not be permitted to run at large, cause damage to other lot owners, or create unreasonable noise or nuisance, as for example, excessive barking by a dog. Such pets shall be contained within a fenced area or secured by a leash, chain or rope, and must be constantly under the effective control of their owners.

13. No motor vehicle, automobile, truck motorcycle or other motorized conveyance of any nature except a duly licensed or registered all terrain vehicle shall be operated, driven or ridden upon the access roadway of said subdivision, and no such vehicle shall be operated upon said roadway except by a duly licensed operator. The speed limit for all such vehicles operated on the access roadway shall be 25 miles per hour.
14. No lot or any building erected thereon shall be used at any time for the purpose of any trade, manufacture, retail or commercial business, nor shall any sign be erected or maintained on any lot advertising any trade, manufacture, retail or commercial business and no junk cars nor any noxious, offensive or illegal activities shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
15. All lots, whether occupied or unoccupied, and any improvements thereon shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.
16. It is further understood and agreed that no nuisance of any kind or anything obnoxious to a good residential neighborhood shall be erected or placed on any lot or any part thereof in said subdivision.
17. It is further understood and agreed by and between the parties hereto that the above restrictions, conditions, covenants and agreements shall be construed and considered as covenants running with the land, a binding upon the purchasers of each lot, their heirs, transferees and assigns.
18. It is further expressly understood and agreed that the owners of all lots designated upon the Plat of crossing on the Middle Fork Subdivision, to be recorded in the Office of the Clerk of the County Commission of Upshur county, West Virginia, agree to become members of Crossing on the Middle Fork Subdivision Homeowners Association, hereinafter to be formed and organized by January 1, 2012, for the purpose of upkeep and maintenance of the roads of Crossing on the Middle Fork Subdivision, and said Association hereafter to formulate its own rules, constitution and by-laws and to set and

collect assessments for maintaining funds for the maintenance, upkeep and repair of said roads and any extensions or additions thereto after January 1, 2012. It is expressly provided that upon the formation and organization of the lot owners' association as hereinabove provided that, for purposes of assessment, the owner of each individual lot shall be counted as the owner of one portion thereof, and that the total assessment necessary for the reasonable and necessary upkeep and maintenance of said roads shall be equally divided among and between all said lot owners, and each lot owner will be responsible for their equal share of the cost of maintenance of the road or roads leading from their lot to West Virginia Secondary Route No. 10/12, known as the Boy Scout Camp Road. It is further understood and agreed that in the by-laws, constitution and rules of said lot owners' association, as hereinabove provided, no action (except as otherwise therein provided) shall be taken except on the affirmative vote of a simple majority of the lot owners in said Crossing on the Middle Fork Subdivision, as designated on the aforesaid plat.

19. Appalachian Land Development, LLC, and the Crossing on the Middle Fork Subdivision Homeowners Association may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardship in the application of the provisions contained herein; provided, however, that such is done in conformity with the interest and purposes of the general development scheme, and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the Crossing on the Middle Fork Subdivision.
20. It is further expressly understood and agreed that the Declarant will convey to each lot purchaser, their heirs, transferees and assigns, the non-exclusive right of access, ingress and regress in, upon and over that certain 30-foot wide road and right-of-way designed on the PLAT OF Crossing on the Middle Fork Subdivision to be recorded in the Office of the Clerk of the County Commission of Upshur County, West Virginia upon designation and approval of the name of said roadway by the Upshur County Commission, which said

plat is incorporated herein, and reference to which said plat is hereby made for all pertinent purposes. It is expressly understood and agreed that said right of way and easement shall not be constructed or considered as an exclusive right of way or easement, but shall be used by all the said not be construed or considered as an exclusive right of way or easement, but shall be used by all the said lot purchasers in conjunction with the Declarant herein and its respective transferees and assigns.

21. The Grantee of any lot in Crossing on the Middle Fork Subdivision, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Declarant, the homeowners association, or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Restrictions, Protective Covenants and Reservations and the agreements herein contained, and also the jurisdiction, rights and powers of the homeowners association; and by such acceptance the grantee shall for himself, his heirs, personal representatives, successors and assigns, covenant and agree to and with the Declarant and /or the homeowners association and to and with the grantees and subsequent owners of each of the lots within Crossing on the Middle Fork Subdivision to keep, observe, comply with and perform said Restrictions and agreements, to be a member of said homeowners association and abide by and comply with its Charter, By-Laws and Regulations.
22. Every one of the Restrictions is hereby declared to be independent of and severable from the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions; therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.
23. The Declarant, the homeowners association or any party to whose benefit these Restrictions inure may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions and the

Court in any such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

IN WITNESS WHEREOF, the said Appalachian Land Development, LLC, a West Virginia limited liability corporation, has caused its corporate name to be subscribed hereto by Ralph Mark Harper, Managing Member, by authority duly given:

Appalachian Land Development, LLC
A West Virginia limited Liability Corporation,

By _____

Ralph Mark Harper,
Managing Member

STATE OF WEST VIRGINIA,
COUNTY OF UPSHUR, To-Wit:

The foregoing instrument was acknowledged before me in my said County and State this ____ day of _____, 2007, by Ralph Mark Harper, Managing Member, Appalachian Land Development, LLC, and a West Virginia limited liability corporation, for and on behalf of said corporation.

My Commission expires _____

Notary Public

