



NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

After recording please return to:
Jeb Chatham
Attorney at Law, P.C.
P. O. Box 2341
Ellijay, GA 30540

GEORGIA, Gilmer County
Clerk of Superior Court
Filed for Record 3-5-03
At 11:00A M. Recorded 3-11-03
Book 433 Page 251
Blanche Sue Johnson
Clerk of Superior Court

Please Cross Reference To
Book 884, Page 196

STATE OF GEORGIA
COUNTY OF GILMER

[Space above this line for Recording Information]

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MOUNTAINTOWN ACRES

THIS DECLARATION is made this 5th day of March, 2003, by Appalachian Land Co., LLC, hereinafter referred to as "Developer". The Developer is the owner of certain real property in Gilmer County, Georgia, further described as follows:

"All that tract and parcel of land lying and being in Original Land Lots 3,4,33 and 34, 11th District, 2nd Section, Gilmer County, Georgia, consisting of 27.90 acres, as shown on plat of survey for Larry Westerman, said plat dated June 6th, 2000, and prepared by Joel Jordan, G.R.L.S. 2430. Said plat is recorded in Plat Book 35, Page 74, Gilmer County Records, with reference made thereto for the purpose of incorporating the same.

The above-described tract is **INCLUSIVE OF** the following:

"All that tract and parcel of land lying and being in Original Land Lots 3, 4, 33 and 34, 11th District, 2nd Section, Gilmer County, Georgia, set out as Lots One (1) through Nine (9), on Plat of survey of "Mountaintown Acres", dated October 28th, 1992, prepared by N.B. DeLoach, G.R.L.S. 1347. Said plat is recorded in Plat Book 24, Page 154, Gilmer County Records, with reference made thereto for the purpose of incorporating the same.

The description as set out above of "Mountaintown Acres" shall hereinafter referred to as the "Property".

The Declarant proposes to subdivide the property into Lots for sale to the general public. By this Declaration, the Declarant intends to establish certain covenants, conditions and restrictions (referred to collectively hereafter as the "Restrictions") on the lots for the benefit and protection of the future and present owners of the lots and for the establishment and maintenance of sound values for the lots. The restrictions herein are intended to run with the land, and to insure to the benefit of and be binding upon each interest so conveyed or reserved and all parties having or acquiring any right, title, interest or estate therein. The Restrictions herein are intended to be mutually enforceable by and upon all such parties, which shall include the Declarant, his heirs, successors and assigns.

As used in this Declaration, the term:

- (1) "Board of Directors" or "Board" means an executive and administrative body, by whatever name denominated, designated in the instrument as the governing body of the association;
- (2) "Building" means the improved home which has been constructed by the Developer and purchased by the Lot Owner at the time of the sale between the Developer and the Lot Owner;
- (3) "Common area" means all real and personal property submitted to the declaration which is owned or leased by the association for common use and enjoyment of the members;
- (4) "Common expenses" means all expenditures lawfully made or incurred by or on behalf of the association together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the instrument;
- (5) "Court" means the Superior Court of the county where the development or any part thereof is located;
- (6) "Declarant" means all owners and lessees of the property who execute the declaration or on whose behalf the declaration is executed; provided, however, that the phrase "owners and lessees," as used in this article, shall not include in his or her capacity as such any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale or lease of a lot, or any lessee or tenant of a Unit. From the time of the recordation of any amendment to the declaration expanding an expandable property owners' development, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within the definition of "Declarant". Any successors-in-title of any owner or lessee referred to in this paragraph who comes to stand in the same relation to the property owners' development as his or her predecessor did shall also come within such definition. The "Declarant" shall initially be the "Developer" until such time as the rights and responsibilities of the Declaration are transferred and assigned to the Mountaintown Acres Property Owners Association, Incorporated as further set out herein;
- (7) "Declaration" means the recordable instrument creating covenants upon property which covenants are administered by a property owners' association in which membership is mandatory for all owners of lots in the property owners' development;
- (8) "Developer" means the person or persons who currently own the Property as set out above and have developed and shall continue to develop the Property. Further, Developer means all owners and lessees of the property who execute the declaration or on whose behalf the declaration is executed; provided, however, that the phrase "owners and lessees," as used in this article, shall not include in his or her capacity as such any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale or lease of a lot, or any lessee or tenant of the Property. From the time of the recordation of any amendment to the

declaration expanding an expandable property owners' development, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within the definition of "Developer". Any successors-in-title of any owner or lessee referred to in this paragraph who comes to stand in the same relation to the property owners' development as his or her predecessor did shall also come within such definition.

For purposes of this Declaration when the Developer has sold all (100%) of the "Lots" (herein defined) in Mountaintown Acres, then enforcement of this Declaration shall inure to the benefit of the Mountaintown Acres Property Owners Association as further set out herein. When this Declaration refers to the Declarant it is the express intention of the Declaration to include the Mountaintown Acres Property Owners Association who is the successor of enforcement of this Declaration when the Developer has sold all Lots as further set out herein;

- (9) "Foreclosure" means, without limitation, the judicial foreclosure of a mortgage and the exercise of a power of sale contained in any mortgage;
- (10) "Limited common areas" means a portion of the common area reserved for the exclusive use of those entitled to occupy one or more, but less than all, of the lots.
- (11) "Lot" means any plot or parcel of land, other than a common area, designated for separate ownership and occupancy shown on a recorded subdivision plat for a development. Where the context indicates or requires, the term lot includes any structure on the lot;
- (12) "Lot Owner" means one or more persons who are record title owners of a lot;
- (13) "Mortgage" means a mortgage, deed to secure debt, deed of trust, or other instrument conveying a lien upon or security title to property;
- (14) "Mortgagee" means the holder of a mortgage;
- (15) "Officer" means an officer of the association;
- (16) "Person" means a natural person, corporation, partnership, association, trust, other entity, or any combination thereof;
- (17) "Property" means the real property that is the subject matter of this Declaration, as set out above, and any interest in the Property, including, without limitation, parcels of air space;
- (18) "Property Owners' Association" or "Association" means a corporation formed for the purpose of exercising the powers of the property owners' association created pursuant to this article;
- (19) "Property Owners' Association Instrument" or "Instrument" means the declaration, plats and plans recorded pursuant to this article. Any exhibit, schedule, or certification accompanying an instrument and recorded simultaneously therewith shall be deemed an integral part of that instrument. Any amendment or certification of any instrument shall, from the time of the recordation of such amendment or certification, be deemed and integral part of the affected instrument so long as such amendment or certification was made in

accordance with this article;

- (20) "Property Owners' Development" or "Development" means real property containing both lots and common area located within Georgia and subject to a declaration and submitted to this article.

1.

This Declaration shall be applicable to the title record owners, hereafter referred to as the "Lot Owners" of the subdivided lots (the "Lots") which appear on a Final Plat of "Mountaintown Acres" denominated with a lot number on said plat which is filed of record in the Office of Superior Court of Gilmer County, recorded in the Plat Books as further set out above in the Gilmer County, Georgia Records. Nothing herein shall be construed as an obligation on the part of Declarant to subject other phases or lots in the subdivision to this Declaration.

2.

The Lots subject to this Declaration shall be used for residential purpose only; no commercial activity shall be conducted. No more than one dwelling shall be placed on a Lot; and no Lot shall be further subdivided or used to access any property outside of the lots within Mountaintown Acres.

3.

For all Residential Dwellings the requirements as set out in Section 15 shall apply. The Declarant shall establish certain standards by and through the Architectural Review Committee and the Landscape Design Committee, so that each Lot Owner may understand the uniform procedures to be implemented by the Declarant.

With regard to the Architectural Review Committee, such standards include, but are not limited to the following:

- a. There shall be no exterior construction or remodeling of the Lots without the express written permission of the Declarant as set out in Section 15 of this Declaration;
- b. Any and all construction, approved in writing by the Declarant, must comply with the design specifications of the currently existing Property. In general, the construction specifications are as follows:
 - (1) All houses will have a minimum of 1500 square feet of living space exclusive of basements, porches, decks, garages or carports;
 - (2) Each dwelling shall be built on a permanent foundation;
 - (3) Construction of the entire dwelling shall be completed within twelve months of commencement;
 - (4) With the exception of foundations, no building shall be constructed of concrete block;
 - (5) All homes shall be constructed of log, log siding, natural wood or natural wood shingles;
 - (6) All roofs shall have customary pitch;
 - (7) All roofs shall be covered with architectural shingles or metal;

- (8) Rock, stucco or other decorative material shall cover all exterior concrete block or poured concrete;
- (9) All yards shall be kept in a clean and attractive fashion;
- (10) All construction and other improvements shall be performed in strict compliance with state and local laws, regulations, codes and ordinances;
- (11) Any damage or disturbance to a road in the subdivision in connection with construction or other activity on a lot shall be the responsibility of the owner of such lot. Such owner shall, at a minimum, restore the road as nearly as practicable, to its former condition, at such owner's sole expense;
- (12) Proper culverts or tiles shall be installed under all driveways, which shall have an asphalt, concrete or all weather gravel surface;
- (13) No silt or other drainage arising directly or indirectly from construction shall be permitted to enter upon the lot of another owner;
- (14) Any violation of any land disturbance, ordinance or law, or other land use regulation, shall be a violation hereof.

4.

All dwellings and other structures shall be constructed a minimum of Fifteen feet (15') from the right of way of the road, and Fifteen Feet (15') from any other boundary line, unless a different setback line is depicted on the Final Plat. Along all boundaries, except those boundaries along a road in the Property, shall be a Fifteen (15') foot "dead zone" which shall remain free from any construction, improvement or disturbance, except as may be allowed with the written permission of the Declarant. Additionally, as already set out above, each Lot Owner shall comply with any land disturbance, ordinance or law, or other land use regulation for all dwellings and other structures.

5.

No mobile homes, manufactured or pre-fabricated houses, industrialized steel complexes, or octagon Homes shall be placed on any Lot.

6.

No semi-tractors or other commercial vehicles of any kind shall be parked on or adjacent to a lot, except for such vehicles used during construction. No structure of a temporary character such as a basement, trailer, lean-to, tent, shack, garage, barn or other outbuilding shall be used as a residence at any time.

7.

The establishment, maintenance and use of all Lots with regard to the disposal of sewerage and effluent shall be done in strict compliance with currently existing State and County Health regulations. In particular, no outside toilets shall be allowed on any lot and no waste or effluent shall be permitted to enter any streams. All sanitary arrangements must be inspected and approved by local or State Health Officers.

8.

No sign of any kind shall be displayed to the public view on any lot, except such signs as comply with the provisions hereof. Builders may display such signs as are normally utilized to advertise the property during the construction and sales period. After an owner closes his

256

purchase on any lot in the Property, the only signs permitted shall be the following:

- a. A professionally prepared sign for identification purposes of not more than two (2) square feet in area;
- b. A single sign to rent or sell said lot of a type used by Brokers in the area, with the usual wording, such sign to be no more than two (2) square feet in size;
- c. In the event any such sign is unsatisfactory, the sign will be removed. These limitations shall apply to signs of all types, including banners, signs on cloth, paper, cardboard and other materials.

9.

No animals or fowl shall be kept on any Lot except ordinary household pets, which must be confined to the Lot unless such pet is on a leash under the direct supervision of said Lot owner or his agent.

10.

No fences constructed of chain link, wire, wire mesh, metal or other similar materials or likeness shall be erected. All fences must be made of wood or as otherwise approved by the Architectural Review Committee. All fences will be painted and maintained in a neat appearance.

11.

No mass removal of trees will be allowed unless such is necessary for construction, or to prevent a hazard. Furthermore, no large trees shall be removed from the property except in connection with the reasonable requirements of construction and landscaping, or where such trees are dead, damaged or present a hazard as determined by a certified home casualty insurance agent or a certified tree inspector. For purposes of this section no Lot Owner shall remove any tree greater than ten (10) inches in diameter except for the provisions as set out above.

12.

Declarant for himself, and his successors and assigns, reserves easements for the installation and maintenance of all utilities and any necessary drainage along a strip of land twelve and one-half (12 ½) feet in width contiguous to all Lot lines and subdivision boundaries. Declarant for himself, and his successors and assigns reserves the right of ingress and egress to such areas for the purpose of maintaining, installing and operating any of the above-mentioned utilities and drainage appurtenances. The rights associated with these reserved easements are hereby conveyed and extended to the applicable utility companies and to Gilmer County, as they may be needed in the course of time. All utility wires and cables shall be installed underground.

13.

No noxious activity shall be conducted on any Lot or parcel of land, nor shall anything be done thereon which shall become an annoyance or nuisance to the neighborhood, including but not limited to loud music or vehicle engines.

14.

No non-operable vehicles shall be left on any lot at any time.

15.

The Declarant shall have the authority to review any and all plans for the installation or construction of improvements upon any Lot (including building or landscape additions or

deletions). No Lot owner shall engage in such installation or construction (including exterior and interior additions or alterations) without the prior written approval of the Declarant provided however, that any application upon which a decision is not made by the Declarant within thirty (30) days of application shall be deemed approved. The Declarant shall have the authority to reject any plan that does not, in the reasonable discretion of the Declarant represents standards appropriate for the subdivision. The Declarant may likewise reject any plan if the Declarant reasonably finds that such plan would create aesthetic values that would adversely impact the monetary or common aesthetic value of the other Lots.

For the purposes of this paragraph the following shall apply:

- (1) "Construction" shall mean any and all improvements made upon the Lot. Said definition shall include, but is not limited to, interior and exterior improvements or construction performed on any Lot. This definition includes new construction and any remodeling or renovations, interior and exterior.
- (2) "Landscape Additions" or "Landscape Improvements" shall mean any and all improvements to the Landscape of any Lot. Said definition shall include, but is not limited to, grading, planting, building exterior landscape construction, placing outdoor furniture on the landscape, yard art, any removable or nonremovable fixtures.

Any Lot Owner(s) requesting approval for installation or construction (whether Landscape or Building) shall comply with the following:

- (1) Said Lot Owner(s) shall submit a dated written request to the Declarant;
- (2) Said written request shall not be deemed received until the same has been stamped and dated by the Declarant as received. For the purposes of this paragraph said request submitted by the Lot Owner may be sent certified, registered or statutory overnight mail delivery;
- (3) Said written request shall be accompanied with an architectural design or landscape design of the improvement that the Lot Owner(s) is seeking to complete;
- (4) Said proposal shall be submitted to one or two review committees as set out in the By-Laws of Mountaintown Property Owners' Association. Said review committees shall be as follows:

- (a) Landscape Design Committee: This Committee shall have the full authority to approve or deny any Landscape design plan requested by the Lot Owner. The specifications for acceptance shall be on file with the Declarant;
 - (b) Architectural Design Committee: This Committee shall have the full authority to approve or deny any Architectural design (Interior and Exterior Construction) plan requested by the Lot Owner. The specifications for acceptance shall be on file with the Declarant;
 - (c) As for the issue of painting the exterior of any Lot structure, each Lot Owner shall submit any request in writing detailing the paint color chosen by the Lot Owner.
- (5) On or before thirty (30) days of said submittal the Declarant shall file a written answer to the proposal unless the appropriate Committee, in its sole discretion, shall

determine that further evaluation is needed. If further evaluation is recommended, then the appropriate Committee shall file a dated written response to the Lot Owner within the thirty (30) period as set out above of the information sought to be obtained by the Committee. Said response shall be mailed to the Lot Owner at the address specified by the Lot Owner, by certified, registered or statutory overnight mail delivery;

- (6) All submissions by the Lot Owner(s) shall comply with the regulations and specifications as further set out by the appropriate review committee as may be amended from time to time in accordance with the By-Laws of the Mountaintown Acres Property Owners Association.

16.

This Declaration shall inure to the benefit of and shall be enforceable by the Declarant. Additionally, said Declaration shall inure to the benefit of and shall be enforceable by the subsequent successor in authority to the Declarant which is the Mountaintown Acres Property Owners Association, Incorporated, hereinafter referred to as the "POA", as set out in the By-Laws of said POA. The POA shall not have the right to enforce the provisions of this Declaration until the Developer makes a written and recorded declaration transferring the responsibilities and benefits of this Declaration to the POA as further set out below.

In the event of a violation or breach of any restriction contained in this Declaration the Declarant Owner/Tenant shall give written notice by certified mail to the breaching Lot Owner/Tenant setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Lot Owner/Tenant shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Declarant shall have the Right of Abatement. The Right of Abatement means the right of the Declarant through its agents and employees, to enter at all reasonable times upon the exterior of any Lot, as to which a violation, breach or other condition to be remedied exists, and to take any actions specified in the notice to the Lot Owner/Tenant to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this article. The cost thereof including the costs of collection including reasonable attorneys' fees shall inure to the detriment of the Lot Owner/Tenant responsible for above failure to act. Nothing herein shall be deemed to affect or limit the rights of Declarant, the Declarant to enforce the terms and provisions hereof by appropriate judicial proceedings in the form of injunctive relief or otherwise. Should such abatement necessitate court action, the breaching Lot Owner/Tenant shall pay all legal costs, fees and damages to the Declarant if found at fault or in breach of this Declaration.

This Declaration shall inure to the benefit of and be enforceable by the POA twelve (12) months from the date that the Developer has sold 100% of all interest in the Lots to Lot Owners.

At such time as the Developer has sold 100% of all interest in the Lots to Lot Owners, then the Developer shall have the right to exercise a twelve (12) month period of time before this

Declaration inures to the benefit of and is enforceable by the POA. At any time between the date that the Developer has sold 100% of all interest in the Lots to Lot Owners and a period of twelve (12) months, the Developer shall have the right to sign and record a statement formerly transferring the rights and responsibilities of this Declaration to the POA.

No later than twelve (12) months from the date that the Developer has sold 100% of all interest in the Lots to Lot Owners, the Developer shall sign a statement declaring that all the rights and responsibilities of this Declaration shall inure to the benefit of the POA. Additionally, the POA shall sign the same statement accepting all the rights and responsibilities of this Declaration that are currently held by the Developer.

17.

Lot Owners/Tenants, by acceptance of a written or verbal lease or entering into the purchase/lease of property in said Development, covenant and agree to pay to the Declarant or any subsequent successor in authority to the Declarant, a monthly Maintenance Fee a membership fee of two hundred dollars (\$200.00) per year and such Special Assessments that may hereafter be charged by said Declarant in accordance with the By-Laws of the POA. If any special assessments are charged by the Declarant to the Lot Owner, then such amount shall be apportioned equally between all Lot Owners.

The Declarant shall keep on file a Common Area Maintenance Annual Budget which details the cost of all expenditures incurred by the Declarant as a result of the obligations of the Declarant further set out herein.

The Declarant shall be responsible to set the budget each year in accordance with the above.

The purpose of any Special Assessment, if any, assessed by the Declarant, shall be to apportion equally to each and every Lot Owner(s) the amount of revenue necessary for the Declarant to provide for the services as further set out in the Budget, further described herein.

The Declarant shall be required to collect competitive bids before deciding on which entity shall be selected for the particular service so that the Declarant may fulfill its requirements under this Declaration.

Said assessments shall be assessed against each Lot Owner(s) equally on the first (1st) day of each year (January 1st) and during each month of the year, or in such other manner as the Declarant shall designate, in equal installments.

18.

To provide for the appropriate amount of capital, each Lot Owner shall pay to the Declarant the equivalent of twelve (12) months prepaid Membership Fees at the time of the real estate closing or transfer of Deed from the Seller (whomever the same may be, including, but not limited to, the Developer, the POA or other record title holder of the Lot) to the Lot Owner. Said prepaid amount shall be applied to the Membership Fee due from the Lot Owner to the Declarant for the first twelve (12) months of the ownership of the Lot by the Lot Owner.

19.

The assessments as further set out above shall be used by the Declarant for the purpose of maintaining the Property and for the safety, efficiency and protection of the Tenants, Owners and the Property and for such other purposes which may from time to time be authorized by the

Board of Directors of the Declarant or the POA. Services of the Declarant include, but are not limited to, the following:

- (1) The maintenance and development of the roadways within the Property
- (2) Declarant shall keep and maintain access to each Lot in good condition, reasonable free of rubbish, and throughout the term hereof. The use of the public street adjoining each Lot shall at all times be subject to such reasonable rules and regulations as Declarant may promulgate uniformly for all Lot Owner/Tenants and subject to all applicable governmental rules and regulations;

20.

The sidewalks, passages, exits, entrances and driveways to the Lots shall not be obstructed by any of the Lot Owner/Tenants or used by them for any purpose other than for ingress to and egress from their respective premises. The sidewalks, passages, exits, entrances and driveways are not intended for use by the general public and Declarant shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Declarant would be prejudicial to the safety, character, reputation, or interest to the Property, Declarant or Lot Owner/Tenants. Nothing herein contained shall be construed to prevent access by persons with whom any Lot Owner/Tenant normally deals in the ordinary course of its business unless such persons are engaged in illegal activities.

21.

In the event that said Maintenance Fees or special assessments are not paid when due, such amounts owed shall bear interest at the rate of ten percent (10%) per year from the date of delinquency.

Further, in the event it becomes necessary to take any legal action to collect any delinquent payments, and any interest thereon, there shall be added to such amount reasonable attorneys' fees and all court costs incident thereto.

All assessments and fees shall be due and payable to the Declarant, which shall be accomplished by paying with cash, check or other negotiable instrument to the POA, together with any interest or legal fees or court costs incident thereto, if any. All said assessments and fees shall be a charge upon the Lot of each Lot Owner/Tenant, and shall be a continuing lien upon said Lot.

The lien of the annual membership dues and assessments shall be subordinate to the lien of any First Deed to Secure Debt now or hereafter placed upon any lot so long as the same has been lawfully recorded in the Deed Records of the Gilmer County Courthouse and said recordation is prior in time to the recordation of the lien of annual fees.

In the event of a Foreclosure on any Lot, then in that event, the lien shall be extinguished so long as the First Deed to Secure Deed was recorded as set out above and was prior in time to the recordation of the lien of fees.

Such Foreclosure shall not relieve such Lot Owner from liability under the lien of any dues or assessments thereafter becoming due.

Such Foreclosure shall not relieve the Lot Owner foreclosed upon from paying any and all dues and assessments due up to and prior to the date of Foreclosure as the same is a covenant to pay money on the part of each Lot Owner.

In the event that any Lot Owner/Tenant shall be delinquent in paying the annual fees or special assessments of Mountaintown Acres provided for herein, then in that event, the Declarant shall not be limited in the remedies for which to collect said amount. All the remedies available under the terms of this Declaration of Covenants, Conditions and Restrictions may be used by the Declarant or the POA in seeking to enforce the same, which include, but are limited to, filing a lien upon the Property, Foreclosing upon said Lien, filing a Complaint for Collection of dues against the Lot Owner of the delinquent Lot Owner/Tenant seeking a personal money judgment against said Lot Owner/Tenant.

22.

All rights reserved under this Declaration to the Declarant shall inure to the benefit of and be enforceable by the Declarant, his heirs, successors or assigns and the subsequent POA, in the event that the Declarant elects to transfer the ownership of the remaining Lots to the POA, solely and exclusively. This provision shall supersede any and all other language to the contrary as set out above in this Declaration.

23.

Any invalidation of one or more of these covenants or restrictions shall in no way effect any of the remaining provisions herein, which shall thereafter remain in full force and effect.

24.

This Declaration may be amended at any time and from time to time by a document as described hereafter, which document shall be recorded in the Clerk's Office of Superior Court of Gilmer County and cross-referenced to this Declaration. Should an amendment be deemed necessary to the provisions of this Declaration each Tenant shall be sent a copy thereto by the Declarant sending the same by first class U.S. mail at the address designated by each Lot Owner/Tenant.

25.

The covenants, conditions, restrictions, and reservations of this Declaration, exclusive of all easements reserved by or on behalf of the Declarant, shall run with and bind the land and the purchaser of any lot or parcel of land in said subdivision, together with the purchaser's heirs, assigns and successors, subject to this Declaration for an indefinite period from the time said Declaration has been recorded in the Clerk's Office of the Superior Court of Gilmer County, Georgia, pursuant to the terms of O.C.G.A. § 44-5-60, in that presently the Gilmer County Board of Commissioners has not enacted any zoning laws wherein the Property lies. In the event that the Gilmer County Board of Commissioners legally adopts zoning law, then in that event, said Declaration shall extend for a period of twenty (20) years from the date said zoning laws are enacted. In the event that the Gilmer County Board of Commissioners enacts zoning laws and the subsequent twenty (20) year term begins to run, then in that event this Declaration shall be automatically extended for successive additional terms of twenty (20) years each unless terminated or otherwise amended by article 21 or a successor statute.

26.

It is understood and agreed by the Lot Owner/Tenant and the Declarant that if the Lot Owner/Tenant assigns their respective interest herein to any individual or individuals, corporation, syndicate or other business association the liability and obligation of such assignee

shall be the same as that provided for the Lot Owner/Tenant herein; and by accepting such assignment the assignee expressly assumes the Owners/Tenants obligations hereunder. Such assignment, however, shall not be effective unless the assignee expressly assumes Owners/Tenants obligations hereunder.

27.

Streets in this Subdivision are private streets and are neither maintained by Gilmer County nor considered part of the road system of Gilmer County. The responsibility for the upkeep and maintenance of the streets shown hereon are the responsibility of the individual Homeowners through the Subdivision's Homeowners Association.

28.

This agreement shall bind, and inure to the benefit of, the parties hereto, their heirs, administrators, executors, successors and assigns.

29.

Any invalidation of one or more of these covenants or restrictions shall in no way effect any of the remaining provisions herein, which shall thereafter remain in full force and effect.

30.

This Declaration may be amended at any time and from time to time by a document as described hereafter, which document shall be recorded in the Clerk's Office of Superior Court of Gilmer County and cross-referenced to this Declaration. Should an amendment be deemed necessary to the provisions of this Declaration, a ballot shall be prepared which asks a clear and concise question as to whether this Declaration shall be amended as stated thereon. Each response shall be by the legal owner(s) of record of lots within Mountaintown Acres, and shall be so stated upon each ballot. Each signature shall be notarized and witnessed. Upon an affirmative or negative vote by the owners of two-thirds (2/3) majority, the amendment shall be considered legally binding upon proper recording. All Lot Owners shall be notified in writing by certified mail of the results of any ballot which amends this declaration. All fees and costs associated with any such amendment shall be the sole responsibility of the Lot Owners that propose and present the amendment. The cost of an amendment creating effort shall create a monetary responsibility of all Lot Owners.

IN WITNESS WHEREOF, the Grantors have signed and sealed this Declaration, the day and year first above written.

APPALACHIAN LAND CO., LLC

[Signature]
Witness

[Signature]
Notary Public



[Signature]
Witness

[Signature]
Notary Public



By: [Signature]
Christopher W. Callihan/Member

By: [Signature]
David R. Tothorow/Member

[Signature]
 Witness
Patricia A. Caputo
 Notary Public

[Signature]
 Witness
Patricia A. Caputo
 Notary Public

[Signature]
 Witness
Patricia A. Caputo
 Notary Public

By: [Signature]
 Harold Steven Totherow/Member

By: [Signature]
 Alan L. Henderson/Member

By: [Signature]
 Larry C. Farist/Member