

**DECLARATION OF  
OCTONIA HIGHLANDS SUBDIVISION**

This Declaration made this \_\_\_ day of \_\_\_\_\_, 2007 by SOUTH RIVER LAND PRESERVATION GROUP I, LLC (hereinafter "Declarant").

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

**The Factual Background** . Declarant is the owner of certain real property situated in Greene County, Virginia, more particularly shown and described as all the certain tracts or parcels of land lying and being situ to in the Stanardsville Magisterial District of Greene County-, Virginia, located on State Route 637 or Octonia Road, consisting of 53.40 acres, more or less. Declarant has subdivided this property as shown on a plat entitled "Subdivision Plat, Lots 1 through 22, Phase I, Octonia Highlands, located on State Route 637, Stanardsville District, Greene County, Virginia, by Roger W. Ray and Assoc., Inc., September 21, 2006, and recorded November 17, 2006, as Plat Card Numbers 4018 and 4019, in the Office of the clerk of the Circuit Court for Greene County, Virginia (hereinafter "the Subdivision Plat"). Declarant desires to subject Lots 1 through 22, shown on the Subdivision Plat to the Covenants, Restrictions, Conditions and Easements set forth herein, each of which are for the benefit of the owners of these lots,

NOW THEREFORE, the Declarant declares that said real property consisting of the of aforesaid lots I through 22, herein called "Octonia Highlands Subdivision", shall he held, transferred, sold, conveyed and occupied subject to the Restrictions, Covenants, Conditions and Easements herein. These Restrictions, Covenants, Conditions and Easements shall be Covenants running with the land and shall be binding upon any and all parties who have or acquire title to all or any part of Octonia Highlands Subdivision, and shall inure to the benefit of each of the owners thereof.

## ARTICLE I

### Definitions

Section 1.01. **Declaration.** The term Declaration as used herein shall mean the restrictions, covenants, conditions and easement and all other provisions herein set forth in this document, as it may from time to time be amended.

Section 1.02. **Subdivision.** The term Subdivision as used herein shall mean and refer to the aforesaid lots as shown on the Subdivision Plat of Octonia Highlands Subdivision.

Section 1.03. **Lot.** The term Lot as used herein shall mean and refer to any plot or parcel of land designated as one of the Lots shown on said Subdivision Plat of Octonia Highlands Subdivision.

Section 1.04. **Owner.** Owner as used herein shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding purchasers who have not yet taken title, and further excluding those holding such interest solely as security for the performance of an obligation. In the case where a Lot is held by one or more persons for life, with the remainder to another or others, the term Owner shall mean and refer only to such life tenant or tenants until such time as the remainderman or remaindermen shall come into use, possession, or enjoyment of such Lot.

Section 1.05. **Declarant,** Declarant, as used herein, shall mean South River Land Preservation Group I, LLC.

Section 1.06. **Association.** Association, as used herein, shall mean the Octonia Highlands Subdivision Homeowners Association.

Section 1.07. **Landowner's Manual.** Landowner's Manual, as used herein, shall mean the Landowner's Manual for Conservation and Stewardship describes all of the features and measures taken to protect the stream bed of the Octonia Highlands Subdivision, including a fifty (50) foot buffer, as well as designated storm drainage easements and codifies the restrictions and

practices that landowners in the Subdivision are committed to uphold to maintain the conservation elements of the Subdivision. The Landowner's Manual is attached hereto.

## ARTICLE II

### PROPERTY SUBJECT TO THE DECLARATION

Section 2.01. **Subject Property.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this declaration is located in Greene County, Virginia, and is shown and described as Lots 1 through 22 on the Subdivision Plat.

Section 2.02. **Subdivision.** These lots shall not be further subdivided except by the Declarant as provided in Article IV.

Section 2.03. **Additions.** The Declarant reserves the right to add additional property to Octonia Highlands Subdivision unilaterally from time to time by amendment to this Declaration consisting of one or more lots which shall be subject to the provisions hereof.

## ARTICLE III

### ARCHITECTURAL CONTROL

Section 3.01. **Committee Composition.** The Architectural Review Board, hereinafter the "Committee", will be composed of three persons. So long as the Declarant retains an ownership interest in any of the lots, the Committee shall be composed of three representatives designated by the Declarant. After the time that the Declarant has conveyed its interest in the last of these lots to any third parties, the Committee shall be composed of the owners of three lots in the subdivision, who shall be selected by the Octonia Highlands Subdivision Homeowners Association.

Section 102. **Purpose.** The Committee shall regulate the external design, appearance, use, site, elevation and location of all improvements on the lots thereon in such a manner as to

preserve and enhance the value of the lots, maintaining a harmonious relationship among the structures, landscaping, and natural vegetation and topography of Octonia Highlands Subdivision and to conserve the existing natural amenities.

Section 3.03. **Conditions.** No improvements, alterations, repairs, excavations, changes in grade, major landscaping, clearing, tree cutting or other work which in any way alters the exterior appearance of any Lot or improvement located thereon from its natural or improved state shall be made or done until the construction plans, site plans, landscaping plans, specifications, working drawings, and proposals for the same showing the nature, kind, shape, color, type, materials, elevations and location thereof, shall have been submitted and approved in writing by the Committee. No building, fence, wall, structure, alteration, landscaping or other improvement shall be commenced without prior written approval of the Committee. Written approval shall also be obtained for the location of the house, driveway and any other structure. Refusal of approval of plans, location, etc., may be based on any grounds, including purely aesthetic reasons, in the sole discretion of the Committee. No shrubbery, bushes or trees shall be planted, installed or allowed within any access easement, drainage easement, storm water management easement or stream buffer. Site plan approval requires that two (2) sets of building permit ready working drawings must be submitted to the Committee and shall include the following:

A. Site Plan Information Required For Approval

- (a) Accurate building footprint including elevations for proposed finished floor and garage floor; decks, porches, stoops, or other detached secondary structures such as storage buildings, etc.
- (b) Accurate "hardscape" information including driveways, parking areas, walkways, and on-site storm water drainage (NOTE: where needed, standard CMP road pipes must be a minimum of 15" x 24' 0")
- (c) Landscaping plan including showing all clearing to be done, how that clearing will be

minimized and natural vegetation, trees and features protected during construction, landscaping to be installed on the lot, grading plan showing all grading to be done on the lot, and protection or restoration of permeable soils important to storm water management.

**B. House Plan Information Required For Approval**

(a) Floor plans;

(b) House elevations at  $\frac{1}{4}'' = 1'-0''$  scale with notes indicating all exterior finishes and materials, and with all accurate grade lines shown;

(c) One wall section at  $\frac{3}{4}'' = 1' 0''$  scale fully noted

(d) Indicate location for HVAC unit, electric, and gas hookups.

Final approval will not be granted until plans are submitted specifying exterior textures, including siding and/or brick, stone or E.I.F.S., roofing material, foundation facing material, windows, and doors. Colors may be submitted at this time or later, but must be submitted and approved prior to application. After reviewing the properly submitted plans, the Committee will return one copy to the owner with comments and maintain the other for its Files. Approval to build, additional information, or required modifications will be made in writing by the Committee within thirty (30) days after submittal.

Section 3.04. **Procedure.** The Committee shall promptly review and act on all requests for approval of improvements submitted pursuant to Section 3.03. In the event that the Committee fails to approve, modify, or disapprove in writing a request for approval required herein within thirty (30) days after the plans, specifications, and other required materials have been received by the Committee, approval will be deemed to have been granted. All actions shall be by majority vote.

Section 3.05. **Exceptions.** Notwithstanding the foregoing, the provisions and requirements of this Article shall be deemed waived if no suit in equity or action at law has been filed with notice of lis pendens, in the Circuit Court of the County of Greene, Virginia, with respect to any violation of this Article within six (6) months after the initial occurrence of the violation.

## ARTICLE IV

## BUILDING AND USE RESTRICTIONS

Section 4.01. The Lots shall be occupied and used as follows:

- (a) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that:
- (1) Dogs, cats and other common and normal household pets may be kept on any lot subject to reasonable rules and regulations adopted by the Committee.
  - (2) Such pets shall be confined to the owner's lot or on leashes at all times.
- (b) No building or buildings of any kind whatsoever shall be erected or maintained on any Lot except one private dwelling house, designed for use and used by a single family and a private garage and utility building for the sole use of the Owner of the Lot upon which they are located. Lots shall be used for single family residential purposes only; provided, however, that the use of a portion of a residence as an office by the Owner shall be allowed if such use does not create employee, customer, client, or other traffic to and from the Lot. In addition, notwithstanding other provisions herein, the Declarant or anyone approved by Declarant may use one or more residences as model homes.
- (c) No residence shall be constructed upon any lot having an enclosed above ground dwelling area of less than 2,600 square feet if all enclosed dwelling area is on one level or less than 3,000 square feet if all enclosed dwelling area is on two levels. No residence shall be constructed upon any lot having an enclosed dwelling area of less than 2,000 square feet on the first level if all enclosed dwelling area is on one and one half levels. The approval of plans required under Article III will not be granted unless a proposed residency shall meet these minimum floor space requirements for enclosed dwelling area. The term "enclosed dwelling area" as used in this minimum size requirement does not include basements, garages, terraces, decks, porches, breeze ways, utility buildings and similar areas.

- (d) No sign of any kind, with the exception of a standard real estate "For Sale" or "For Rent" sign, or "builder's sign", no more than seven square feet in area shall be displayed to the public view from any Lot without prior written consent of the Committee.
- (e) No obnoxious, boisterous, or offensive activities shall be permitted on any Lot, nor shall anything be done thereon that may be an annoyance or nuisance to the Owners of other Lots in Octonia Highlands Subdivision,
- (f) No burning of paper, household trash, cardboard, construction materials or other refuse shall be permitted on any lot.
- (g). The Declarant may subdivide lots and rearrange boundary lines without the consent of the Committee.
- (h) No structures of a temporary character, tent, or trailer shall be used as a residence on any Lot at any time.
- (i) No radio antennas or television reception antennas over 24 inches in diameter shall be installed on any lot.



- (j) No driveway entrance requiring a culvert pipe shall be installed unless such pipe has flared end sections, and is at least 15" in diameter and 24' in length with the location and top of the culvert to be placed in a manner to meet the Virginia Department of Highways regulations allowing acceptance of the adjacent road into the state highway system. The contour of the adjoining land and the area of land disturbed at each culvert shall be restored and seeded. If any headwall is used, it shall be of stone and similar to others in the subdivision and approved by the Committee. The purchaser of any lot from Declarant shall at the time of closing of the purchase place \$1500.00 in escrow with the Declarant for the purpose of securing compliance with this subparagraph. This escrow shall be released to the lot owner when the driveway entrance and culvert and head wall, if one is installed, have been approved by the Virginia Department of Highways and the Committee.
- (k) No unlicensed or inoperable vehicles, trucks with gross vehicle weight over  $\frac{3}{4}$  tons, school busses, other busses, wreckers, or other large commercial vehicles shall be parked on any lot or road bordering a lot over night unless within a garage.
- (l) No RV's, boats, trailers, or other recreational equipment shall be stored on a lot in a manner so that any portion of it protrudes in front of the front-most portion of the residence.
- (m) It shall be the responsibility of each owner and tenant to prevent the development of any unclean, unsightly, or unkept conditions of buildings or ground on their Lot.

- (n) Should any dwelling unit or other structure on any Lot be destroyed in whole or in part, it shall be reconstructed, or the debris therefrom removed and the Lot restored to a neat and sightly condition within six (6) months of the damage or loss.
- (o) A side load or rear load garage for a minimum of two (2) automobiles shall be constructed on each lot prior to the occupancy of any building or structure constructed on a Lot. Front load garages and car ports shall be strictly prohibited.
- (p) All driveways shall have a paved or concrete surface which has been approved by the Committee. Surfaces that allow infiltration of groundwater will also be considered.
- (q) There shall be no exposed foundations except those faced with stone, brick, stucco or approved natural siding material. The front elevation of every home shall have at least one (1) except walls using matching or complimenting material used on the foundation except in cases where hardiplank is used exclusively for a farmhouse style elevation.
- (r) There shall be no manufactured or modular homes placed on any lot and, there shall be no flat roofs, except for porches, and no roof with a primary pitch of less than a ratio of 8 to 12,
- (s) Roofs shall be covered with twenty-five year dimensional shingles or better, metal, wood shake or slate.
- (t) Exterior may consist of stone, brick, or hardiplank.
- (u) Sidewalks and porch steps must be stamped concrete, brick, stork or exposed aggregate.
- (v) Above ground pools shall be strictly prohibited and any permitted play or recreational equipment shall he positioned on a lot in a manner so that any portion of it protrudes in front of the front-most portion of the residence.
- (w) No structure of a temporary character shall be placed upon any Lot at any time; provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that

these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Lot after completion of construction of the main dwelling house. The design and color of structures temporarily paced on a lot by a contractor shall be subject to reasonable aesthetic control by the Committee,

(x) Any and all exterior lighting shall be subject to approval by the Committee. No lighting fixtures or devices shall be installed in any tree. No lighting fixture shall be directed toward a road or adjoining Lot. Any lighting fixture installed on residential property in Octonia Highlands Subdivision must be fully shielded and minimize illumination of adjoining residential property. A fully shielded lighting fixture is one that is constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture is projected below the horizontal as determined by photometric test or certified by the manufacturer.

(y) There shall be no exterior clothes lines erected on any lot.

(z) Fences will be allowed on properly lines behind the front most part of the house. All fences must be approved by the Committee as provided in Article III, however no fence shall be constructed of chain link, and shall be no taller than six (6) feet. Fences may not impact features installed to manage stormwater, and may not be used for boundaries adjacent to Riparian Buffer and the Farm Buffer as set forth in the Landowners Manual.

(aa) The exterior of all residences and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner and builder due to strikes, fires, national emergency or natural calamities. During the continuance of construction, the Owner of the Lot shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition.

(bb) No mailbox shall be erected or maintained on any property until the proposed mailbox design, color and location have been approved in writing by the Committee. Refusal or approval of design, color, or location may be based by the Committee upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Committee seems sufficient. No alteration in the exterior appearance of any mailbox shall be made without like prior written approval by the Committee. The Committee further reserves the right to establish uniform mailbox regulations (the "Uniform Mailbox Regulations") which shall define standard design criteria for all mailboxes erected upon any Lot.

(cc) Each Lot Owner shall provide a screened area in which garbage receptacles, fuel tanks or similar storage receptacles, satellite dishes, air conditioning equipment, and other unsightly objects shall be placed or stored in order to conceal them from view of the road. Plans for such screened areas delineating the size, design, texture, appearance and location must be approved by the Committee prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

(dd) No part of any Lot shall be used as a right-of way, easement or road for access to any property outside Octonia Highlands Subdivision,

(ee) Preserving the existing terrain, using native vegetation and minimizing disturbance of the natural setting shall be focal points for landscaping. All houses must incorporate a minimum landscape plan, which is to be reviewed by the Committee. Minimum requirements,

- (1) Seed and straw on all disturbed areas.
- (2) Four (4) each 6' to 8' tall trees.
- (3) Fourteen (14) each 1.5' to 2.5' medium evergreen shrubs.
- (4) Six (6) each 1.5' to 2' tall medium shrubs

(ff) All lot owners will be responsible for maintenance of Storm Water Easements and Riparian Buffers on their lots in accordance with Landowners Manual.

## ARTICLE V

### EASEMENTS AND OPEN SPACE

Section 5.01. **Existing Easements.** The Lots shall be conveyed subject to easements shown on the Subdivision Plat., and such other easements as may exist of record at the time of conveyance. All easements shown on the Subdivision Plat are reserved for the benefit of the Declarant, its successors and assigns, which easements may be conveyed by the Declarant to one or more Grantees.

Section 5.0.2 **Drainage and Utility Easements.** In. addition to all other easements provided for on the Subdivision flat and in this Declaration, the Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right of way on, above and underground through all areas of each lot and the open space area, excepting only such land either designated by the Architectural Review Board as approved building sites or upon which a structure other than trees, shrubbery, or fences approved by the Architectural Review Board is constructed. The purpose of said easement shall be to construct, maintain, inspect, re-grade, replace, and repair vegetation, road shoulders, lines, wires, cables, conduits, pipes, and other suitable equipment and facilities for the conveyance of gas, telephone, electricity, television cable, exterior lighting, storm water and other utilities and public conveniences, for any purpose required by the County of Greene or Virginia Department of Transportation in conjunction with the acceptance of the subdivision streets into the state system for maintenance, and for storm and surface water drainage including pipes, ditches, culverts, swales, and other suitable facilities for the disposition of storm and surface drainage together with the right of ingress and egress to all such facilities and easements for the construction and maintenance thereof.

The phrase "land designated by the Architectural Review Board as approved building sites" shall mean (i) the area under buildings, patios, walks, decks, porches, or other improvements not including driveways, fences, shrubs and trees constructed by Declarant or the agents, contractors, or , sub-contractors of either; (ii) the area under other buildings, patios, waits. decks, porches, or other improvements not including driveways, fences, shrubs, and trees; the location of which is approved by the Architectural Review Board in accordance with Article III of this Declaration.

The easements provided for herein shall include the right to cut any trees, brush, and shrubbery; dig or grade any soil; and take any other similar action as reasonably necessary for the use of the easement.

The rights herein reserved may be exercised by any licensee, successor or assignee of Declarant but shall not be deemed to impose any obligation upon Declarant to provide, maintain, or be responsible for the lapse or temporary interruption of services except as herein otherwise provided. Any damage to the property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage. The rights herein reserved shall include the right to temporarily interrupt utility service as necessary or appropriate upon reasonable notice to the owner of the servient property.

**Section 5.03. Entrance Structure Easements.** The Declarant reserves unto itself, its successors and assigns, perpetual and alienable easements for the construction and maintenance of entrance structures including fencing, gate posts and community signs.

**Section 5.0.4. Drainage Easements and Drainage and Storm Water Management Easements.** The Declarant reserves unto itself, its successors and assigns, perpetual and alienable drainage easements as shown on the Subdivision Plat. These easements are solely for

surface and storm water management purposes and are not to be used for access or any other purpose by the public or any other lot owner. The maintenance of the portion of each of these easements within each lot shall be the responsibility of the owners of that lot.

Section 5.05. **Maintenance Responsibilities.** The owner of each lot shall be responsible for the maintenance of the surface area of any portion of any easement within the boundaries of that lot.

The Declarant, its successors and assigns shall be responsible for and maintain the open space, if any, within the subdivision and the surface area of all easements located therein. The Declarant, its successors and assigns shall also be responsible for and maintain any entrance gates or stone walls as shown on the Subdivision Plat if and when they are installed.

The Declarant's responsibility for maintaining these easements may be assigned to the Association provided for in this Declaration at or subsequent to the time the open space is conveyed to that association. Upon the conveyance of the open space to the Association and assignment of the responsibilities for maintenance thereof are assigned to the Association, the Declarant shall have no further responsibility for such maintenance.

## ARTICLE VI

### ROADS

Section 6.01. **Subdivision. Roads.** The roads shown on the Subdivision Plat serving the lots within the subdivision shall be constructed by Declarant to applicable Virginia Department of Transportation standards and the Declarant shall arrange for the roads' acceptance into the Virginia Highway System. All driveways serving the individual lots shall be private and shall be subject to approval by the Committee pursuant to Article III of this Declaration and shall be maintained by and at the expense of the Owner of the Lot which they serve.

## ARTICLE VII

## SET BACK

Section 7.01. **Building Set Backs.** Building set backs from front, side and rear boundaries shall conform to the Greene County Zoning Ordinance and, if more restrictive, the set backs shown on the Subdivision Plat.

## ARTICLE VIII

## TREES

Section 8.01. **Trees.** No trees on a lot HAVING a caliper of four (4) inches or greater shall be cut unless approved by the Committee or otherwise required by law.

## ARTICLE IX

## HOMEOWNERS ASSOCIATION

Section 9.01. **Formation.** The Declarant shall form a non stock corporation, to be known as the "Octonia Highlands Subdivision Homeowners Association", not later than the time it conveys to a third party its interest in the last lot it owns within the Subdivision. The membership in the Association shall consist of the Owners of all of the lots within the Subdivision and the Declarant may, but shall not be required to, assign to such Association all of Declarant's rights and responsibilities under this Declaration. Upon the Declarant's transfer to a third party of its interest in the last lot it owns in the Subdivision, or Declarant's assignment of its rights and responsibilities under this Declaration to the Association, whichever occurs earlier, the responsibility for the Committee and the right to appoint the Committee's members shall vest in the Association.

Section 9.0 2. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or



other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for 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 shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such lot at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, although it shall remain a lien on the Lot.

**Section 9.03. Determination of Assessments.** The Octonia Highlands Subdivision Homeowners Association shall, in November of each year, after Declarant has assigned its rights and responsibilities under this Declaration to the Association, estimate the amount of money which shall be required during the next calendar year to maintain the open space and the surface of all easements located therein, and the easement and stone walls and signs at the entrances to the Subdivision and shall allocate this amount equally among the lots not owned by the Declarant and assess the Owners of each such Lot for their proportional share. However, no assessment or allocation shall be made to any lot owned by the Declarant. In the event that two or more lots should be combined into a single lot, this shall not affect the allocation and assessment of such costs to the lot owners, and the lots which have been combined shall be allocated and assessed for the same amount as they would have been had the lots not been combined. The Association shall notify each lot owner in writing of the assessment not later than December 31st of each year, and of the date upon which payment of the assessment is due, Payment of the assessment shall be due at such time and location as the Association shall determine from year to year, which time shall not be earlier than February 1st each year. Should

natural causes or requirements imposed by Greene County require a level of maintenance during a year which exceeds the estimate previously determined by the Association, the Association shall determine the additional funds that will be required in addition to those already assessed for the year, and assess an equal portion of such additional required funds upon each lot in the same manner provided above. Notice of the assessment shall be given in writing as soon as reasonably practical to each lot owner and the lot owner shall be given a minimum of thirty days from the date of mailing of the notice within which to pay the assessment.

**Section 9.04, Effect of Nonpayment of Assessments; Remedies of the Association.**

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the current legal rate, there shall be a late fee as set by the Board of Directors and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

**Section 9.05. Subordination of the Lien to Deeds of Trust.** The lien of the assessments provided for herein shall be subordinate to the lien of any first deeds of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any deed of trust, pursuant to a deed of foreclosure by a first deed of trust, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability from any assessments thereafter becoming due or from the lien thereof.

ARTICLE X

CONSERVATION COMMITTEE

**Section 10.01 Committee Composition.** The Conservation Committee will be composed

of three persons. So long as the Declarant retains an ownership interest in any of the lots, the Conservation Committee shall be composed of three representatives designated by the Declarant. After the time that the Declarant has conveyed its interest in the last of these lots to any third party, the Conservation Committee shall be composed of the three persons designated by the Association.

**Section 10.02 Purpose.** The Conservation Committee shall be responsible for monitoring and managing the Riparian Buffer and storm drain easements, as well as farm buffer, open areas and gate entrances, if any, so as to perpetuate the conservation of native vegetation and wildlife as prescribed in the Landowner's Manual.

**Section 10.03 Guidelines.** The guidelines for managing and monitoring the above areas and for the Conservation Committee assisting the Architectural Board are as follows:

A. Lots. The Conservation Committee will assist the Architectural Review Board in reviewing all requests for modification to lots that may impact conservation goals. These include any clearing, grading, landscaping tree cutting or other work, which may alter the Lot from its natural or improved state.

B. Riparian Buffer. The Riparian Buffer shall be maintained in its natural state with only a footpath for use by residents of Octonia Highlands Subdivision. Signs will be posted to identify the boundary of the Riparian Buffer. Fences separating the Riparian Buffer area from Lots will not be used in this area. There shall be no mechanized vehicles or activities allowed that would negatively impact the natural environment, wildlife, flora or fauna. Any work or improvements in the Riparian Buffer will be subject to the approval of the Declarant, until such time as he may assign this right to the Association.

C. Farm Buffer. The Farm Buffer, if any, shall be maintained in its natural state with only a footpath for use by residents of Octonia Highlands Subdivision. Signs will be posted to identify the boundary of the Farm Buffer. Fences separating the Farm Buffer from Lots will not be used in this area. There shall be no mechanized vehicles or activities allowed that would negatively impact the natural environment, wildlife, flora or fauna. Any work or improvements in the Farm Buffer will be subject to the approval of the Declarant, until such time as he may assign this right to the Association.

D. Open Space and Entrances. The Conservation Committee shall assist and advise the Architectural Board on the maintenance and management of open spaces, if any, and of Subdivision entrances which may be stone walled with signage.

**Section 10.04 Procedure.** The Conservation Committee shall determine the frequency of inspection for the Riparian Buffer, Farm Buffer and Open Spaces but must inspect all elements at least annually. If inspection requires ingress on a Lot, the Owner must be given at least thirty (30) days notice prior to inspection. Any element requiring repair or modification must be reported in writing to

the Association and Owner if applicable within thirty (30) days of the discovery of such violation.

## ARTICLE XI GENERAL PROVISIONS

Section 11.01. **Notice.** Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage prepaid to the address of the Owner shown on the real estate tax records of the County of Greene, Virginia.

Section 11.02. **Enforcement.** Enforcement of the provisions of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate said provisions, either to restrain violation or recover damages, or both. Such action may be brought by the Declarant, any Lot Owner, or the Octonia Highlands Subdivision Homeowners Association. In addition, the Declarant and/or the Octonia Highlands Subdivision Homeowners Association shall have the power to suspend a lot owner's right to use facilities or services provided directly through the Declarant or the Association to the extent that access to the lot through the common areas is not precluded and provided that such suspension shall not endanger the health, safety or property of the owner, tenant or occupant and to assess charges against any lot owner for any violation of the provisions of this declaration for which the member or his family members, tenants, guests or other invitees are responsible. Before any charges or suspension may be imposed, the member shall be given an opportunity to be heard by the Declarant and/or Octonia Highlands Subdivision Homeowners Association and to be represented by counsel. Notice of a hearing, including the charges or other sanctions that may

he imposed shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address with record of the Association at least 14 days prior to the hearing. The amount of any charges so assessed shall not be limited to the expense or damage to the Declarant or the Association caused by the violation, but shall not exceed \$50.00 for a single \$10.00 per day for any offense of a continuing nature. The total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days. A suspension or assessment of charges may be enforced through an action filed in the Courts for Greene County, Virginia. The Declarant, Octonia Highlands Subdivision Homeowners Association or any lot owner bringing a successful action pursuant to this paragraph shall be entitled to recover its court costs and reasonable attorneys' fees.

Section 11.03. **Costs.** Should the Association, Declarant or any Owner prevail in any action at law or in equity enforcing any of the restrictions, conditions, covenants, reservations, liens and charges imposed hereunder, the Association, Declarant or Owner shall also be entitled to an award for reasonable attorney's fees incurred by the Association, Declarant or Owner in consulting with an attorney regarding enforcement and in the enforcement action. The award for attorney's fees shall be assessed against the Lot against which the action is taken and shall be added to and become a part of such annual assessment or charge to which such Lot is subject under Article IX hereof; and as a part of such annual assessment or charge, shall be a lien or obligation of the Owner and shall become due and payable in all respects as provided in Article IX hereof.

Section 11.04. **Severability.** Invalidation of one or more of the provisions of this Declaration by judgment, court order or otherwise, shall in no way affect any other provisions, which shall remain in full force and effect.

Section.11 .05. **Amendments.** This Declaration may be modified or amended in whole or in part by recorded instrument bearing the signature of the Declarant, until such time as the Declarant has conveyed its interest in all of the Lots in the subdivision to a third party. After the Declarant has conveyed all of its interest in said Lots to a third party, this Declaration may be amended only by an affirmative vote of two-thirds (2/3) of the Lot Owners,

Section 10.06. **Duration.** The provisions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date hereof, and thereafter shall be renewed automatically for successive periods of ten (10) years each, unless modified or amended as provided in the foregoing Section 8.04.

WITNESS the following signatures and seals:

South River Land Preservation Group I, LLC

By: \_\_\_\_\_

[Notary acknowledgment]