

Blue Mountain Subdivision Declaration of Protective Covenants, Conditions & Restrictions

Know all persons by these presents, that Blue Mountain Property Owners Association, Incorporated (BMPOA), a Virginia corporation, for the purpose of maintaining or increasing the value, desirability, and safety of Blue Mountain Subdivision (BMS), does hereby establish and create the following protective covenants, conditions and restrictions, which shall be binding upon all lots and upon the purchaser or purchasers of all lots in said subdivision, their successors and assigns, and shall have the effect of covenants running with the land, whether specifically referred to in the deeds of conveyance of said lots or not. All property owners in Blue Mountain Subdivision shall be associate members of the Association.

Article I Definitions

1. "Association" and "BMPOA" shall mean and refer to Blue Mountain Property Owners Association, its successors and assigns.
2. "Owner" and "Property Owner" shall mean and refer to the record owner, whether one or more persons or entities, or a fee or undivided fee interest in any lot which is a part of the properties and as to be a party to and to be bound by these covenants, but excluding those having such interest merely as security for the performance of an obligation.
3. "Property" shall mean and refer to that certain real property known as Blue Mountain Subdivision as the same appears duly dedicated, planned and recorded among the land records of Warren County, Virginia.
4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the residents of Blue Mountain Subdivision.
5. "Lot" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat of the property.
6. "Board" shall mean and refer to the Executive Board of Blue Mountain Property Owners Association.
7. "Cottage Industry" shall mean and refer to usage for any enterprise, occupation, activity, or profession conducted in a dwelling, which is clearly incidental and subordinate to the use of the dwelling for residential purposes. Such non-residential uses shall be confined to the principal structures, and only the residents shall be engaged in such

occupation. There shall be no changes to the outside appearance of the property. There shall be no substantial increase in traffic above the level for strictly residential uses. Noxious fumes of excessive noise may not be created by this use.

Article II Sanitary District

The Blue Mountain Subdivision Sanitary District has been created by Order of the Circuit Court of Warren County for the purposes set forth in Virginia Code. An annual Sanitary District tax is levied by Warren County on all property in the subdivision for those purposes as funded in the annual budget. By agreement with the Board of Supervisors of Warren County, the Executive Board of BMPOA is the managing agent of the Sanitary District. If the Sanitary District contract is repealed, revised or ceases to exist for any reason, BMPOA, reserves the right to assess a reasonable fee to be paid by all BMS property owners for the purposes that would normally have been funded by the Sanitary District. A special meeting will be called in order to discuss the assessment and necessary procedural changes. Collection of any such fees does not bind BMPOA, its successors or assigns, to any specific standard of performance and its responsibility shall be restricted to the expenditure of the fees collected for these purposes. Failure to pay the assessed fee will result in liens being placed on properties.

Article III Rights

1. Each owner shall have the right and easement of enjoyment in and to the Common Areas. The right of use and enjoyment of the Common Areas and facilities of an owner may be shared with members of his/her family or his/her tenants who reside temporarily or permanently on the properties, and guests in accordance with rules and regulations established by the Association.
2. The BMPOA reserves the right to limit the number of guests of owners based on the capacity of the facilities.
3. The BMPOA reserves the right to dedicate, transfer, or sell the Common Area and Lodge to any public or private agency, authority, or utility for any such purposes and subject to conditions as may be agreed upon by two-thirds (2/3) majority of Blue Mountain Property

Owners subject to any easements or restrictive covenants as may apply to any common area deeds.

Article IV Protective Covenants and Restrictions

Section I. General Covenants and Restrictions

1. All lots within the subdivision, with the exception of those lots which have been previously designated as commercial lots, shall be known and described as residential lots and shall be used for residential purposes only. Cottage industry shall be allowed.
2. No lot shall be re-subdivided or combined to form new lots.
3. Noxious or offensive trade or activity shall not be carried on upon any lot, nor shall anything be done thereon which maybe or become an annoyance or nuisance to the neighborhood.
4. Signs or advertising of any description may not be erected or placed on any portion of a lot without written approval of BMPOA, its successors or assigns. Lot owners will not require such written approval to post one, standard size "For Sale" or "For Rent" sign. Realtor directional or pointer signs may not be erected. Signs identifying the property (or the owners) may be placed, so long as they are in keeping with the style typical on Blue Mountain - that is, reasonably limited in size and number, compatible with the surroundings, tastefully done, and having the appearance of natural materials.
5. Animals, livestock, or poultry of any kind shall not be raised, bred or kept on any lot except that dogs, cats or other common household pets may be kept, provided they are not kept, bred or maintained for commercial purposes.
6. Firearms shall not be discharged within the boundaries of Blue Mountain Subdivision.
7. Trash, building materials, furniture or other similar material or refuse etc., and anything dangerous, offensive, unhealthy, or unsightly shall not be dumped or kept on any of the lots in this subdivision. Garbage shall be kept in covered containers, which shall be so located that they may not be easily seen from any road or right of way. Garbage or toxic substances of any sort shall not be buried on any lot.
8. Open air burning of leaves, trash, logs, stumps, etc., is prohibited.
9. All chimneys shall be covered with spark screens.
10. Clotheslines shall be located so as to not be easily seen from any road.

11. Consistent with Warren County code, automobiles, trailers and other motor vehicles parked on any lot must have a current motor vehicle registration. Large commercial vehicles are prohibited from being parked or kept in Blue Mountain Subdivision. Lots 21 and 22 are exempt from this provision for the present owner. BMPOA must approve, in writing, any exception to this covenant.

12. The use of any unlicensed recreational vehicle (such as, but not limited to, motorized trail bikes, three or four wheel ATVs, snow mobiles, etc.) is prohibited within the subdivision.

13. Heat pumps, ground-mounted air conditioners, storage tanks, etc., shall be shielded to obscure view from the roads.

14. Water drawn from the well at the Lodge shall be for drinking purposes only and shall not be used to fill cisterns.

15. Hunting is prohibited within Blue Mountain Subdivision.

16. These covenants shall extend to and be binding upon the occupants of leased lots and it shall be the responsibility of the lot owner to inform the lessee of said covenants. The lot owner shall be held responsible for any violation of the said covenants.

17. Warren County ordinances such as noise ordinance and dog leash laws are recognized by these covenants and are enforced by Warren County.

18. If the Board, or its designated agent, determines that there has been a violation of Section I, the Board, or its designated agent shall give written notice advising the owner of the lot involved of the violation. The owner shall have thirty (30) days to correct the violation or to appeal in writing the determination of the Board. In the event of an appeal the Arbitration Committee will make the final determination. The Arbitration process shall be concluded within thirty (30) days of the appeal. If the appeal is denied the owner will be informed of what action the Association will take if the violation is not corrected within thirty (30) days of notification of the decision on the appeal. If the violation is not corrected within thirty (30) days of final notice, the Board or its designated agent, may initiate legal action and request reasonable attorney fees and court costs.

Section II Improvement and Maintenance of Properties

1. No structure shall be erected, altered, placed or permitted to remain on any residential lot other than one detached, single family dwelling, a

private garage, an accessory building or other structures covered under Article IV, Section II paragraph 2.

2. Buildings, fences or other structures or additions, including but not limited to dams and swimming pools, shall not be erected or altered and only trees necessary for foundations, primary septic fields and driveways may not be removed unless the plans, specifications, including color scheme and plot plan showing present and proposed grade elevations are submitted to and formally approved in writing by the Association's Architectural Review Committee. All exterior work, including painting must be completed within one year of commencement.

3. New dwellings shall have approximately one thousand (1,000) square feet minimum of living space and manufactured homes must satisfy Class A design restrictive criteria.

4. Permanent outside toilet facilities shall not be constructed or maintained on any lot.

5. New construction shall not commence until building site and detailed plans, including materials, and plans for tree removal have been approved by the Architectural Review Committee. Any deviation in approved plans may result in legal action. Any garage, accessory building or other structure must conform generally in appearance and material with the residence. In general, construction on lots is to be sited so as to be as unobtrusive as possible using natural flora as a shield from access roads. Residences are to be constructed of such materials as to meld into the natural beauty of Blue Mountain. This means that the residence is to be of wood construction, with a finish compatible to the natural flora of Blue Mountain. The Architectural Review Committee reserves the right to grant exceptions to this construction. Granting of such exceptions will be on a case by case basis especially concerning the use of simulated wood siding. The Architectural review Committee has developed detailed guidelines, which are available to builders and developers for use in complying with the provisions of this paragraph.

6. Before applying for any building permit or zoning variance from Warren County, the owner will first notify the Chairman of the Architectural Review Committee of his intent to make such application. This includes applications made by a contractor or other agent on behalf of the owner. The application for or receipt of a building permit or zoning variance does not eliminate the need to obtain the Association's written approval. Requests for approval shall be made in writing with

return receipt requested. Within thirty (30) days of receipt of the request, the Chairman of the Architectural Review Committee or his designee will provide written notification to the owner of:

- (1) Approval,
- (2) Disapproval, including reasons therefore, or,
- (3) The need for additional information to support the request. If written notification is not provided within thirty (30) days of receipt of the request, the request will be deemed to have been approved. If additional information is requested, the Architectural Review Committee will provide the owner with written notification of approval or disapproval of the request within thirty (30) days of receipt of additional information. If written approval is not provided within thirty (30) days of receipt of the additional information, the request will be deemed to have been approved.

7. Buildings shall be built no closer than seventy five (75) feet from the centerline of Route 638 and no closer than seventy (70) feet from the centerline of any internal road or right of way, twenty (20) feet from the side lines and twenty five (25) feet from the rear line of any lot. BMPOA, its successors or assigns shall have the right to grant exceptions to the rear and side setbacks. If more than one lot constitutes a building site the side lot line provisions shall apply to the outside lot lines.

8. During new construction trees felled will be staged on the property as to be unobtrusive or removed from the lot. The Architectural Review Committee will consider reasonable proposals for the removal of trees creating a scenic view, but will not approve extensive clearing of trees from a lot so as to leave the lot largely cleared.

9. Trees may be cleared on one's own lot to maintain a pre-existing scenic view, to maintain existing cleared areas adjacent to buildings, and to avoid potential damage to property or other trees.

10. No trailer, mobile home, camper, RV, or such, tent or basement of uncompleted building garage or other accessory building located upon any lot shall at any time be used as a residence. Camping tents may be erected for temporary recreational use only. These restrictions shall not apply to temporary guests of one month or less in any six (6) month period with RVs or mobile homes. Violations of this paragraph will be enforced as provided under Section I, Paragraph 18.

11. All structures and improvements on a lot shall be maintained in a neat and presentable manner. Structures and improvements shall not be allowed to deteriorate so as to be unsightly, or to constitute a nuisance, or to reduce the real estate value of the lot or any other lot

within the Blue Mountain Subdivision. Violations of this paragraph will be enforced as provided under Section I, Paragraph 18.

12. Satellite receiving antennas and large radio antennas must be approved by the Architectural Review Committee prior to installation. They shall be located so that they are not easily seen from any road and a minimum amount of clearing is required. The Association, or its designee or assign reserves the right to with a majority vote of property owners to install and operate a common TV distribution system for the benefit of all property owners, and to establish user's fees.

13. If the Board, or its designated agents determines that an owner is in violation of Section II, the Board will notify the owner in writing of the violation and the action which must be taken to correct the violation.

After such notification of violation, the owner will:

- (1) Have sixty (60) days to complete the corrective action or,
- (2) Have twenty (20) days to submit an alternative plan to correct the violation, including an alternative timetable or, appeal in writing the determination of the Board. The Board will have thirty (30) days after receipt of the alternative plan to approve or disapprove the alternative plan. If the Board fails to approve or disapprove the alternative plan within thirty (30) days of receipt, it shall be deemed to have been approved. If the alternative plan is disapproved, the owner will have sixty (60) days to complete the corrective action originally specified by the Board. In the event of an appeal the Arbitration Committee will make the final determination. The arbitration process shall be concluded within thirty (30) days of the appeal. If the appeal is denied the owner will be informed of what action the association will take if the violation is not corrected within thirty (30) days of notification of the decision of the appeal. If an owner fails to complete the corrective action specified by the Board then the Board or its designated agent, may initiate legal action and request reasonable attorney's fees and court costs.

Article V Provisions

1. BMPOA hereby reserves unto itself, its successors and assigns, the fee simple title to the streets as shown upon the recorded subdivision plat of the property together with right to change, or to alter, the location of, or to close or partly close, any of said streets, and the right to use or

grant easements for utility installations across, over and under said streets, without consent of any of the lot owners who have purchased lots in accordance with said plat by deeds duly recorded; provided that the exercise of such rights shall not interfere with the convenient right of ingress and egress to and from the lots conveyed to the purchasers in accordance with the said plat by deeds of record.

2. BMPOA reserves to itself, its successors, licensees or assigns, an easement or right of way over a strip of ground ten (10) feet in width along the side out lines, twenty (20) feet in width along the rear out lines and twenty five (25) feet in width along the front lines or along any bordering road, of the lots and wherever and to the extent required, for the purpose of road maintenance, installation or maintenance of public utilities, including but not limited to gas, water, electricity, telephone and sewerage and any appurtenances to the supply lines therefore, including guy wires, transformers, meters, etc., by overhead transmission lines or underground installation, including the right to remove and/or trim trees, shrubs or plants. If more than one lot constitutes a building site, the side out line provisions shall apply to the outside lot lines. This reservation is for the purpose of providing for the practical installation of such utilities as and when any public authority or utility company may serve said lots and to maintain the roads. In some exceptional cases, BMPOA, its successors or assigns, shall have the right to increase the above mentioned easement or right of way if it so deems advisable for the installation or maintenance of the above mentioned public utilities or road maintenance services.

3. These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until September 4th, 2002, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless it is agreed to change said covenants in whole or in part. The vote to change said covenants shall be conducted according to the following procedure:

(1) The Board may vote at any time to call a special meeting of the property owners to discuss proposed changes to these covenants; or upon receipt of petition signed by ten (10) percent of the property owners, must call such a meeting.

(2) The proposed changes shall be mailed to the property owners at least thirty (30) days prior to the meeting where they will be discussed.

(3) After the meeting the proposed changes and/or modifications shall be mailed along with a ballot to the property owners. At least sixty (60) days shall be allowed for returning the ballots.

(4) Each property owner of record shall have one (1) vote regardless of the number of lots owned within the subdivision by said owner or the number of persons or entities comprising said owner.

(5) Approval of the proposed changes requires a majority vote of the property owners.

4. Invalidation of any one of these covenants by judgment or court order or by State or County law shall in no way affect any of the other provisions, which shall remain in full force and effect. Prior covenant violations permitted by Blue Mountain Inc. shall not justify exceptions to the covenants under the control of BMPOA.

5. The BMPOA or any owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by BMPOA or by any owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6. The Officers, Directors and/or members of any Committee of BMPOA: ("Official")

(1) Shall not be liable to the owner(s) as a result of the performance by the Official of his duties for any mistake of judgment, negligence or otherwise by an Official except for his willful misconduct or gross negligence.

(2) Shall have no personal liability to any owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by the Official on behalf of BMPOA in the performance of his duties; or

(3) Shall have no personal liability in tort to any owner or any other person or entity, direct or imputed, by the virtue of acts performed by or for them, except for his own willful misconduct or gross negligence in the performance of his duties.

7. Whenever in this declaration the context so required, the masculine gender includes the feminine and neuter singular number includes the plural and the plural number includes the singular. IN TESTIMONY WHEREOF, Blue Mountain Property Owners Association, has caused these covenants to be signed in its corporate name by William H. Jahn III, its President, and duly attested by Marcia P. Smith, its Secretary, on

this 18th day of September, 1992. Witnessed by Wanda F. Bryant
Notary Public. This document has been duly recorded in the Clerk's
Office of the Warren county Circuit Court. Book 482, Pages146 through
153 on September 18th, 1992 at 11:12 AM by William A. Hall, Clerk.