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westridge

plat Book 129 pg. 650

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DECLARATION OF RESTRICTIONS, CONDITIONS, EASEMENTS,  
COVENANTS, AGREEMENTS, LIENS AND CHARGES,

SNOWSHOE

THIS DECLARATION, made this 14th day of June, 1974,  
by SNOWSHOE COMPANY, a West Virginia corporation, hereinafter  
called "Snowshoe",

W I T N E S S E T H:

WHEREAS, Snowshoe is the owner of that certain real  
property located in Pocahontas County, West Virginia, as set  
forth on that certain survey map or plat entitled:

SNOWSHOE COMPANY

Pocahontas County, West Virginia

OLD SPRUCE

consisting of 224 lots, which map or plat is recorded in Map  
Book 1, at page 36, in the Office of the Register of Deeds of  
Pocahontas County, West Virginia, said property being more  
particularly described on said map or plat; and

1.

Recorded June 7 1974 in  
the office of the Clerk of the County  
Court of Pocahontas Co., W. Va., in

Deed Book No. 132 page 650

*W. M. H.*

WHEREAS, it is the desire and intention of Snowshoe to sell the above-described real property and to impose upon it mutual, beneficial restrictions, conditions, easements, covenants, agreements, liens and charges under a general plan or scheme of improvement for the benefit of all the said lands and the future owners of said lands:

NOW, THEREFORE, Snowshoe hereby declares that all of the property described above is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following provisions, restrictions, conditions, easements, covenants, agreements, liens and charges, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the said real property and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property and every part thereof, and all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the described lands or any part thereof, provided that no part hereof shall apply to condominium apartment units.

## I

### DEFINITIONS

Whenever the term "Snowshoe" appears herein, it shall include the declarant hereof, its successors or assigns.

Whenever the term "single family cluster" is used, it shall mean a portion of the subdivision designated as such on the map thereof and reserved for construction of several single family residences constructed on one or more lots in close proximity with a higher density per lot than one residence.

## II

### TERM

All of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges set forth herein shall affect each and all of the above-described lots delineated on said map, shall run with the land and shall exist and be binding upon all parties and all persons claiming under them for a period of fifty (50) years from the date of recordation hereof, unless sooner annulled, amended or modified pursuant to the provisions of Article XXII hereof.

## III

### MUTUALITY OF BENEFIT AND OBLIGATION

All of said restrictions, conditions, easements, covenants, provisions, agreements, liens and charges set forth

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Deeds are made for the mutual and reciprocal benefit of each and every lot shown on said map and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all other lots shown on said map; to create reciprocal rights among the respective owners of all the lots shown on said map; to create a privity of contract and estate between the grantees of said lots, and their heirs, successors and assigns; and shall as to the owner of each lot in said subdivision, the heirs, successors or assigns of said owner, operate as covenants running with the land for the benefit of each and all other lots in said subdivision and their respective owners.

#### IV

##### LAND USE

All lots, tracts and parcels of the subdivision shall be used only as herein set forth, and such designated usage can be changed only by the approval of the Architectural Committee as provided for herein. All lots of the subdivision shall be used only for single-family residence, except those lots whose use is specifically indicated for purposes other than single family as set forth herein, except that nothing set forth in this Declaration shall be construed to prevent Snowshoe from erecting and maintaining or authorizing the erection and maintenance of, structures and signs for the development and sale of the subdivision while the same or any part thereof is owned by Snowshoe.

#### V.

##### USE AND IMPROVEMENT

Each and every one of the lots and tracts of the subdivision described above shall be improved, occupied and used for the respective purposes and permitted uses as follows:

###### A. GENERAL

1. Improvements on each lot shall be used exclusively for the purposes of a single-family residence.
2. All lots in residential areas shall be used for residential purposes exclusively. No structure except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two and one half (2½) stories in height and one small one-story accessory building which may include a detached private garage and servant's quarters, or either, provided the use of such dwelling or accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a commercial enterprise. Such

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accessory building may not be constructed prior to the construction of the main building. A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and provided that such guest suite would not result in overcrowding the site.

3. The Architectural Committee has the authority to set up additional regulations as to the height and size requirements for all buildings and structures including fences, walls, eaves, trellises, copings, and other such surfaces, projections and appendages as will visibly affect the appearance of said buildings and structures.
4. The minimum square footage for standard single family dwelling areas shall be 800 square feet. The minimum square footage for single family structures constructed in single family cluster areas shall be 600 square feet, and the maximum square footage therein shall be 1200 square feet.
5. Permits and/or approvals for the construction of improvements on properties shall be issued only as a result of a thorough review of a complete and detailed set of construction plans of the proposed buildings by the Architectural Committee (construction shall thereafter commence only upon receipt of written approval by the Architectural Committee). Plans submitted to the Architectural Committee for approval shall include the following:
  - (a) Site development plan, including drives, paths, fences, decks, patios and all proposed improvements in connection with such building.
  - (b) Landscaping plan to include all trees, bushes, and various plantings, etc., if applicable.
  - (c) Complete and detailed construction or schematic plans and specifications to include all exterior elevations, materials to be used, and colors.

#### B. APPROVAL TO BUILD

Property owners wishing to construct residences in any classification must submit three (3) sets of plans as set forth above for each classification prior to and well in advance of the time they intend to commence construction, as it is not permissible to proceed with construction until such a time as written authorization and approval of such plans submitted have been received from the Architectural Committee. Plans for approval should be mailed to Architectural Committee, Snowshoe

Company, Sixtyfork, West Virginia. Clearing of any lot for a house site shall not begin until an authorized representative of the Company has approved the location of the house thereon.

C. BUILDING SETBACK--Minimum Distance

House locations shall be governed by the following general restrictions.

- a. No building may be closer to a street line than thirty (30) feet, and nearer the other lot boundaries than ten (10) feet, unless allowed otherwise and stated in the plat of the subdivision.
- b. In any golf course area, in addition to the restrictions in (a), no building shall be closer than sixty (60) feet to the lot or lines adjacent to the greens, tees, fairways, or lake areas of the golf course.

D. SEWAGE DISPOSAL AND WATER SYSTEM

1. Owners of homes completed prior to the completion of the central sewage system and the water system, or either, must make connection to such system within thirty (30) days after completion of each such system.
2. When the central water system and the central sewer system are completed, no permits or approvals for the construction of improvements on any lots shall be granted or approved by the Architectural Committee unless and until the property owner desiring such approval shall have made satisfactory financial arrangements with a licensed plumber, approved by Snowshoe, for making connections from the central sewer system and the central water system for such property owner's lot.
3. No sewage shall be emptied or discharged into any creek, river, or lake or shoreline thereof. No sewage disposal system shall be permitted on any lot nor may any sewage disposal system be used unless such system is designed, located, constructed and maintained in accordance with the requirements, standards, and recommendations of the appropriate public health authority and by the Company.
4. No private water wells may be drilled or maintained on any residential lot so long as the Company plans a water distribution line within fifty (50) feet of such lot with an average daily water pressure in such line adequate for normal household use in dwellings served by such distribution line.

#### E. TEMPORARY STRUCTURES

No structure of a temporary character, basement, tent, shack, trailer, camper, garage, or any other outbuilding shall be used on any lot at any time as a permanent or temporary residence, or dwelling, except under a temporary written permit which may be granted, upon specific time limitations of such use, at the discretion of Snowshoe. Nor shall such be placed on or erected on any lot or lots; provided, however, that the Architectural Committee may grant permission for such temporary buildings or structures for the storage of materials during construction by the persons doing such work. No trailer, tent, barn or other similar outbuildings or structures shall be placed on any lot at any time whether temporarily or permanently.

#### F. CONSTRUCTION PERIODS

The work of constructing, altering or remodeling any building on any lot or lots shall be pursued diligently from the commencement until the completion thereof, and shall be completed within one (1) year of start of construction.

#### G. LOT GRADING AND FILLING

1. All planned lot grading shall be approved in advance by the Architectural Committee.
2. No lot may be filled to a point higher than the highest point on the lot in its natural state. All lot filling shall be approved in advance by the Architectural Committee.

#### H. NUISANCES

No noxious or offensive activity shall be carried on upon any of the development, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

#### I. REFUSE

1. No lot shall be used or maintained as a dumping ground for rubbish, refuse or garbage. Garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the disposal or storage of such matter shall be kept in a clean and sanitary condition, and all incinerators shall be approved by the Architectural Committee before installation or use.
2. Snowshoe will provide garbage receptacles in single family cluster areas.

J. FUEL TANKS

No fuel tank or similar storage facility may be exposed to view and such facility may be installed only within the main dwelling house, buried, or within an accessory building.

K. RADIO AND TELEVISION ANTENNAE AND ELECTRONIC EQUIPMENT

1. No television or radio antennae or towers may be erected or maintained anywhere upon the development without the prior written consent of the Architectural Committee.
2. All electrical, radio, TV and electronic equipment must be approved by the Company in accordance with requirements of The National Radio Astronomy Observatory zoning regulations.

L. LAUNDRY

All drying of wash must be done in an area approved for that purpose by the Architectural Committee, except that a folding drying rack not more than four (4) feet in height may be placed at the rear of any lot, and shall be stored when not in use.

M. PETS AND OTHER ANIMALS

No livestock of any description may be kept or permitted on the property with the exception of dogs, cats and other animals which are bona fide household pets, and which do not make objectionable noise or constitute a nuisance or inconvenience to owners of other lots nearby. No raising, breeding, training or dealing in dogs, cats or any other animals may be permitted on or from any lot. Horseback riding shall be limited to approved equestrian trails.

N. SIGNS

No signs, billboards, or advertising structures of any kind shall be allowed on any of the lots, except with written permission from the Architectural Committee.

O. FURTHER SUBDIVISION

No lot shall be subdivided, or its boundary lines changed, except with the written consent of Snowshoe. However, Snowshoe hereby expressly reserves the right to replat any two (2) or more lots shown on the plat of said subdivision prior to their sale in order to create a modified building lot or lots, including but not limited to, the relocation of easements, walkways, and rights of way, provided that no lot originally shown on a recorded plat is reduced to less than eighty (80) percent from its original size, or to one (1) acre, whichever is the lesser. The provisions hereof shall apply to each such lot so created.

P. UNELEGANT CONDITIONS

It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such lot which shall tend to decrease the beauty of the neighborhood as a whole or the specific area.

Q. FENCES

All property lines shall be kept free and open one to another and no fences shall be erected on any lot or lot lines except where, in the opinion of the Company, a fence or other enclosure, as a structure or aesthetic feature of a design concept, will contribute to and be in keeping with the character of the area.

R. TRASH REMOVAL

In order to implement an attractive, overall appearance to the residential areas, the Company reserves the right to enter upon any residential lot on which a residence has not been constructed to remove any trash which has collected on such lot without such entrance and removal being deemed a trespass.

VI

ARCHITECTURAL COMMITTEE

A. All plans and specifications for any building, swimming pool, fence, wall or other structures whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the roofs and exterior color schemes thereof, any later changes or additions thereto after initial approval thereof, and any remodeling, reconstruction, alterations, or additions to any building or other structures on any lot shall be subject to and shall require the approval, in writing, of the Architectural Committee, as the same is from time to time composed, before any such work is commenced.

B. The Architectural Committee is composed of the following four (4) members as appointed by Snowshoe:

Thomas H. Brigham  
Robert L. Farish  
Edward M. Gwathmey  
Robert Winter-Duranel

C. Any vacancy shall be filled by the remaining member or members of said Architectural Committee, or, if no members remain, by Snowshoe Company. The Architectural Committee may appoint advisory committees from time to time to advise it on matters pertaining to the subdivision. There shall be submitted to the Architectural Committee three (3) complete sets of plans and specifications of

any and all improvements, the erection or alteration of which is desired, and no structures or improvements any kind shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations and specifications therefor have received such written approval as herein provided. Such plans shall include plot plans showing the locations on the lot of the building, wall, fence, or other structure proposed to be constructed, altered, placed or maintained, together with the proposed color schemes for roofs and exteriors thereof.

D. The Architectural Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof. Two (2) sets of said plans and specifications and details with the approval, or disapproval endorsed thereon, shall be returned to the person submitting them, and the other copy thereof shall be retained by the Architectural Committee.

E. The Architectural Committee shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid in the event such plans, specifications and details are not in accordance with all of the provisions of this Declaration, if the design or color schemes of the proposed building or other structure is not in harmony with the general surroundings of such lot or with the adjacent buildings or structures, if the plans and specifications or details, or any part thereof, to be contrary to the interests, welfare, or rights of all or any part of the real property subject hereto, or the owners thereof, all in the sole discretion of the Architectural Committee. The decisions of the Architectural Committee shall be final.

F. Neither Snowshoe, the Architectural Committee nor any architect or agent thereof or of Snowshoe shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans and specifications.

## VII

### PARKING REQUIREMENTS

A. There shall be a minimum of two (2) automobile parking stalls of at least ten (10) feet by twenty (20) feet for each single family residence or dwelling unit constructed on any lot.

B. Said two (2) parking stalls shall be constructed entirely within the building setback area as defined herein.

C. Enclosures, shelters, screens and other improvements constructed for the purpose of automobile parking and other vehicles shall be attached to and a part of the structure of the house constructed on any lot.

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B. Snowshoe will provide parking for each single family unit constructed in the single family cluster area.

## VIII

### VARIANCES

A. The Architectural Committee shall have power to and may allow reasonable variances and adjustments of these conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein; provided, however, that such is done in conformity to the intent and purposes hereof; and, provided, also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variances and adjustments of height, size and setback requirements may be granted hereunder.

B. The Architectural Committee may also determine and allow in the respective classifications of lots, additional uses which are of the same character.

C. In the event there shall be governmental regulations which conflict with or prevent works of construction or improvements in the manner as required by the regulations within, these circumstances shall be deemed to constitute practical difficulties, justifying allowances of variances and adjustments of said regulations in order to prevent unnecessary hardship, provided, however, that in every instance the variance or adjustment shall not be materially detrimental or injurious to property or improvements in the neighborhood.

## IX

### FENCES AND BOUNDARY PLANTING

A. No wall, coping or fence may be erected or maintained on any lot except with the approval of the Architectural Committee. Boundary planting along side and rear lot lines, except trees with single trunks, shall not be permitted to grow higher than eight (8) feet.

## X

### UTILITY AND DRAINAGE EASEMENTS

A. The right is reserved to construct and maintain public utilities on the streets and roads of the subdivision either above or below ground and to make all necessary slopes for cuts or fills upon the lots shown on the herein referred to recorded map in the original grading of said streets and roads; and Snowshoe reserves perpetual,

alienable and releasable utility easements under, over and across a strip ten (10) feet (unless otherwise noted on the survey map herein referred to, in which case said map shall govern) in width adjacent to and along the side yard lines of each lot for the purpose of placing, laying, erecting, constructing, maintaining, and operating, or of authorizing the placement, laying, erection, construction, maintenance and operation of utilities (including, without limitation, sewage, water, electricity, gas, telephone and telegraph); and Snowshoe reserves perpetual, alienable and releaseable easements under, over and across a strip ten (10) feet (unless otherwise noted on the recorded map herein referred to, in which case said map shall govern) in width adjacent to and along the front and back yard lines of each lot for the purpose of placing, laying, erecting, constructing, maintaining, or operating or of authorizing the placement, laying, erection, construction, maintenance and operation of utilities and drainage systems. No change in the natural drainage shall be made by any lot owner without prior written approval from the Architectural Committee.

B. The interest conveyed by Snowshoe in any of said lots by contract, deed or other conveyance, shall not in any event be held or construed to include the title to the water, gas, sewer, storm sewer, electric light, power, telephone and telegraph lines, poles or conduits, or any other utility or appurtenances thereto constructed by Snowshoe, or its agents, or by any utility company along or upon said lots, or any part thereof, to serve said property. The right to sell, convey or lease water and sewer lines and their appurtenances erected by or on behalf of Snowshoe is hereby expressly reserved to Snowshoe.

C. The Company may cut drainways for surface water wherever and whenever such action may appear to the Company to be necessary to maintain reasonable standards of health, safety and appearance. Those easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. It further reserves the right to locate wells, pumping stations and tanks within residential areas on any walkway, or any residential lot designated for such use on the applicable plat of a residential subdivision or to locate same upon any lot with the permission of the owner of such lot.

XI

APPEARANCE OF LOTS, REMOVAL OF TREES

A. Each lot, all all times, shall be kept in a clean, slightly and wholesome condition. No trash, litter, junk, boxes, containers,

bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any lot so they are visible from any neighboring lot or road, except as necessary during a period of construction.

B. All service yards, woodpiles and storage piles shall be walled in or kept screened by adequate solid fencing, approved by the Architectural Committee, in such manner as to conceal them from neighboring lots and roadways.

C. No lot shall be used in whole or in part for the storage of any property or thing that will cause such lot to appear in an unclean, disorderly or untidy condition or that will be otherwise obnoxious. No obnoxious or offensive activity shall be carried on upon any lot nor shall anything be done, placed or stored thereon which may be or become an annoyance or nuisance to the neighborhood or occasion any noise or odor which will, or might, disturb the peace, quiet, comfort or serenity of the occupants of nearby lots.

D. No trees with trunks of 6" in diameter or greater, measured one foot above the ground level shall be removed without first obtaining written consent of the Architectural Committee.

## XII

### EASEMENT FOR USE OF STREETS

Snowshoe hereby grants, conveys and assigns and sets over unto the owners of all lots reflected on the referred to map and affected hereby, an easement and full and mutual right of use of, for the purpose of access, ingress and egress, all of the areas designated as streets upon said map referred hereinabove. Snowshoe reserves the right at any time hereafter to dedicate and convey such streets to any appropriate governmental body or to the public.

## XIII

### BRIDGES

The Company expressly reserves to itself any other provisions in the Declaration including the right to build any bridges, walkways or fixed spans across any or all natural or man-made, creeks, ponds, or lakes on Company property. Nothing in this paragraph shall be construed as placing an affirmative obligation on the Company to provide or construct any bridge, walkway or fixed span unless such bridge, walkway or fixed span shall be shown and specifically designated on the recorded plat of the subdivision

or section of lots referred to and incorporated in the deed of conveyance to the grantee of the lot.

XIV

TRAFFIC REGULATION

Snowshoe shall have the right and power and option to establish and enforce rules and regulations governing the operation of vehicles and conveyances, motor powered or otherwise, on the streets and roads of the subdivision. Such rule and regulation making power and option shall include, but is in no way limited to, the establishment and enforcement of speed limits, stop signs, yield signs, no parking zones, traffic control signals, safety zone and other traffic control and safety devices, rules and regulations together with reasonable remedies, including fines for violations of such rules or regulations. The right and power and option herein given to Snowshoe in this Article may be assigned to any appropriate governmental body or authority.

XV

OPEN SPACES AND OTHER AREAS

Snowshoe reserves unto itself all right, title and interest in and to the open spaces and other areas shown on the herein referred to map or plat and the same shall be the sole and exclusive property of Snowshoe.

XVI

UTILITY COMPANY

The Company reserves unto itself the right at any time hereafter to form a separate utility company for the purpose of supplying cable television, water and sewage service to homeowners where applicable, and for which service the Company may charge each homeowner receiving the service a reasonable fee.

XVII

FIRST REFUSAL TO COMPANY

In the event the owner desires to sell a residential site situated in the subdivision together with its improvements, if any, then said property shall first be offered for sale to the Company at the same net price after deducting commissions payable to any real estate agent involved at which the highest bona fide offer has been made for the property. The owner desiring to sell such site shall give the Company written notice by registered mail, return receipt requested, of the owner's desire

to sell any such site and shall further advise the Company of the name and address of the person, firm or corporation making said highest bona fide offer, as well as the amount and terms of said offer. The Company shall have thirty (30) days after receipt of written notice within which to exercise its option to purchase said property at the highest bona fide offer; should the Company fail within thirty (30) days after receipt of written notice of the price and terms, to exercise its option to purchase said property at the offered price then the owner of said property shall have the right to sell said property at a price not lower than that at which it was offered to the to the Company.

XIII

ASSESSMENT BY SNOWSHOE AND  
LIEN THEREFORE

A. Each owner or purchaser of a lot shown on the herein referred to map or plat shall be acceptance of a deed thereto or by the signing of a contract or an agreement to purchase the same, whether from Snowshoe or a subsequent owner or purchaser of such lot, covenant, agree and bind himself, his heirs, personal representatives, successors and assigns to pay an annual assessment, determined as hereinafter provided, for the maintenance and care of the roads, streets, alleys, sidewalks, parks, common areas and common facilities in and around Snowshoe to which lot owners have a right of use or access, and for fire and police protection, and for such other services as may be made available to lot owners or purchasers by Snowshoe.

B. Until such time as a lot owner or purchaser shall commence the construction of improvements upon his lot, the annual assessment as aforesaid shall be an amount equal to one-half ( $\frac{1}{2}$ ) of one percent (1%) of the list purchase price of the lot at the time of the purchase.

C. Effective on June 1 of the year following the year in which the construction of improvements commences upon a lot, the annual assessment as aforesaid shall be an amount not to exceed, in the absolute and sole discretion of Snowshoe, a sum equal to  $1\frac{1}{2}$  percent of the taxable (assessed) value of the lot.

D. The statement or bill for the aforesaid applicable annual assessment for each year (or for a prorata portion thereof for the year in which the purchase was made) shall be rendered by Snowshoe in July of each year and is payable at any time thereafter and shall be due by October of such year. Any permissible increase in the assessment contained herein shall be based upon the percentage increase in the said Consumer's Price Index, or any successor index thereto, during the twelve calendar months preceding the end of the month prior to the month in which Snowshoe renders the annual statement for assessments.

E. Any assessment as aforesaid not paid when due shall bear interest at the rate of eight percent (8%) per annum until paid and shall have the collection cost thereof, including a reasonable attorney fee, if any, added thereto.

F. The obligation to pay the aforesaid assessment, interest, and costs, shall constitute a lien upon and an obligation running with the land.

G. The lien provided for herein shall be enforceable by appropriate legal proceedings, in the manner provided by law. No proceedings for enforcement of any such lien or liens shall be commenced except upon the expiration of four (4) months from and after the date the assessment giving rise to such lien becomes due and payable.

H. Liens for first trust deeds placed upon any lot for the purpose of constructing a residence or other improvement thereon and record in accordance with the laws of the State of West Virginia, shall be from the date of such recordation, superior to any and all liens provided for herein. Snowshoe may, if requested, execute instruments to subordinate any and all liens provided for herein to such liens of first trust deeds.

I. Snowshoe may, at its option, by appropriate written instrument recorded in accordance with the laws of the State of West Virginia, subordinate any and all liens provided for herein to the liens of other mortgages, deeds of trust and other encumbrances, or either.

#### XIX

#### REMEDIES FOR VIOLATIONS

A. All provisions, restrictions, condition, easements, covenants, agreements, liens and charges herein shall be binding on all of the lots described on the herein referred to map or plat and the owners thereof, regardless of the source of title of such owners, and any breach thereof, if continued for a period of thirty (30) days from

and after the date Snowshoe or any other property owners, shall have notified in writing the owner or resident in possession of the lot upon which or as to which such breach has been committed to refrain from a continuance of such action and to correct such breach, shall warrant Snowshoe or other lot owner, to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief, and if such relief be granted, the court may, in its discretion, award to the plaintiff in such action reasonable expense in prosecuting such suit, including attorney's fees.

B. Violation of any of the foregoing provisions, restrictions, conditions, easements, covenants, agreements, liens and charges shall not defeat or render invalid the title of any deed of trust made in good faith for value as to any lot or portion thereof in the subdivision but such provisions, restrictions, conditions, easements, covenants, agreements, liens and charges shall be enforceable against any portion thereof acquired by any person, through foreclosure or by deed in lieu of foreclosure for any violation of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein contained occurring after the acquisition of said property through foreclosure, or deed in lieu of foreclosure.

XX

ACCEPTANCE OF DECLARATION

Each purchaser and grantee of any of the properties subject to this Declaration, by acceptance of a deed conveying title thereto, shall accept such title upon and subject to each and all of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein contained, and also the jurisdiction, rights and power of this Declarant, and by such acceptance, shall for themselves, their heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Snowshoe, and to and with the grantees and subsequent owners of each of said lots within the subdivision to keep, observe, comply with and perform said provisions, restrictions, conditions, easements, covenants, agreements, liens and charges and each thereof.

XXI

NO RIGHTS WAIVED BY DELAY

No delay or omission of the part of Snowshoe or the owner or owners of any lot or lots in said property, in exercising any right, power or remedy herein provided for in the event of any breach of any of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein contained shall be construed as a waiver thereof or acquiescence therein,

and no right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against Snowshoe for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event of any such breach, or for imposing herein provisions, restrictions, conditions, easements, covenants, agreements, liens and charges which may be unenforceable.

XXII

PARTIAL INVALIDITY

In the event that any one or more of the provisions, restrictions, conditions, easements, covenants, agreements, liens, and charges herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein set forth shall continue unimpaired and in full force and effect.

XXIII

REMEDIES CUMULATIVE

The various rights and remedies of Snowshoe and the owners of lots as heretofore set out are and shall be cumulative. All of them may be used, relied upon, resorted to and enforced without in any way affecting the ability of Snowshoe or the said property owners to use, rely upon, resort to or enforce the others, or any of them.

XXIV

NUMBER AND GENDER

All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

XXV

AMENDMENTS

Any or all of the provisions of this Declaration of Restrictions, Conditions, Easements, Covenants, Agreements, Assessments, Taxes, Liens and Charges, may be annulled, amended, or modified at any time by the filing in the Pocahontas County, West Virginia Public Registry of an instrument setting

forth such annulment, amendment or modification, executed by the owner or owners of record (as shown by the land records of Pocahontas County, West Virginia, at the time of the filing of such instrument) of seventy-five percent (75%) of the property (computed by acreage) encompassed within the Snowshoe Development. The property encompassed within the Snowshoe Development is defined, for the purpose of this paragraph only, as the lots described in the herein referred to map or plan and all property owned by Snowshoe.

XXVI

CAPTIONS

The captions of the various paragraphs of this Declaration are for convenience only and are not a part of the Declaration, and do not in any way limit or amplify the terms or provisions thereof.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed the day and year first above written.

SNOWSHOE COMPANY

By Thomas H. Bixby, Jr.

Its President

ATTEST:

D. M. K.  
Assistant Secretary

State of West Virginia, County of Pocahontas, to-wit: I Thomas H. Bixby, Jr., a notary of said county, West Virginia, do certify that Thomas H. Bixby, Jr. who signed the writing above bearing the date the 14<sup>th</sup> day of Aug -, 1974, for Snowshoe Company, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this 7 day of August, 1974.  
My commission expires the 5 day of January, 1982.

WITNESS  
OFFICE OF THE COUNTY COURT OF POCOHONTAS COUNTY  
The original copy of the Declaration of Thomas H. Bixby, Jr.  
was this day presented to me in my office and thereon the same together with the certificate of acknowledgement of which is annexed to record hereon. 17.  
Thomas H. Bixby, Jr. THE H. Bixby clerk 560