

be delinquent in a subsequent proceeding to enforce the lien.

8. Upon payment of the assessment, the Association shall execute a written release of the lien, to be recorded at the Clerk's office at the expense of the Association.

ARTICLE VI AMENDMENTS TO THE DECLARATION

1. This Declaration may be amended only by vote or agreement of Owners of lots to which at least sixty percent of the votes in the Association are allocated (i.e. 60% of 39 Lots is 24 Lots; Thus 24 Lots must vote to approve any amendments to the Declaration at a duly constituted meeting) .

2. No action to challenge the validity of an amendment adopted by the Association may be brought more than one year after the amendment is recorded.

3. No amendment may increase the number of lots specified herein, change the boundaries of any lot , change the allocated interest of a lot , or the uses to which any lot is restricted, in the absence of unanimous consent of the owners.

4. Amendments to the Declaration to be recorded must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or by the President of the Association.

ARTICLE VII ASSOCIATION RECORDS

The Association shall keep financial records sufficiently detailed to enable the association to comply with this Declaration. All financial and other records must be made reasonably available for examination by any Owner and his authorized agents.

ARTICLE VIII COMMON PROTECTIONS AND PROTECTIVE COVENANTS

1. Any lot consisting of 4.25 acres or more may be further subdivided one time each, to yield a total of two lots. Each successor Lot, including its parent, must contain two acres, or more, and must comply with all applicable health laws, zoning ordinances, and if applicable, any subdivision control ordinance.

2. Any Owner of a qualifying lot who may desire to subdivide his Lot must, at the Owner's expense, cause a new subdivision plat to be made and presented to the Board of Directors of the Association for approval, which shows the mother lot and the newly subdivided lot. The newly created lot shall bear a number or numeral which will identify it as being derived from one of the existing lots of Sherman Estates (i.e. if lot

39 is subdivided, the new lot created may be named lot 39A).

3. The Board of Directors may not unreasonably withhold permission to record the Amended Plat of Survey, and once approved for recordation by the Board of Directors (and the local county officer in charge of approving plats for recordation), the Owner may record the Amended Plat, after which he may freely transfer his subdivided lot to any person of his choosing.

4. Any Owner who creates a new Lot by further subdivision of his lot agrees that the newly created lot shall have a vote in Sherman Estates, just as any other Lot has, but that it must pay its annual pro rata share of the maintenance costs of Sherman Estates as set forth herein. Furthermore said Lot is bound by all of the rules and regulations of Sherman Estates as a Lot of same.

4. No signs or advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs not to exceed six (6) square feet in area, except for directional and informational signs of Declarant.

5. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as part of the development of any lot, the Owner shall provide adequate off-road parking for owner and his guest(s).

5. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plates or an inspection sticker not more than six (6) months out of date shall be permitted on any Lot. House trailers may be placed on any lot so long as any Hampshire County regulations with regard to house trailers (mobile homes) are complied with. Where possible, house trailers shall be placed in wooded areas on the lot. Setback lines for mobile homes shall be 100 feet from the center line of the subdivision road unless otherwise approved by the Association. All house trailers must be permanently placed on a block foundation or the foundation must be enclosed by aluminum siding.

6. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months, provided however nothing shall be construed to prevent the owner from erecting tents on the lot and to camp overnight in said tents for a period of up to fifteen

430

days. Travel trailers may be placed on the Lots, but the Association may regulate their continued presence by making rules and regulations pertaining to their use.

7. Not more than one single family residence shall be erected on a lot. Residences, shall contain a minimum of 750 square feet on the first floor excluding basement, garage, porch, carport, deck, and overhanging eaves. Cabins or second homes shall contain a minimum of 500 square feet on the first floor excluding basement, garage, porch, carport, deck, and overhanging eaves. Seasonal cabins shall be placed 100 feet or more from the centerline of any roadway unless otherwise approved by the Association. All exterior construction must be completed and closed in within eight (8) months of the commencement of construction.

8. Each lot shall be used for residential or recreational purposes only, and any garage or outbuilding must conform generally in appearance and material with any dwelling on said lot.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

(a) Home occupations conducted by occupant.

(b) Agricultural uses, including incidental uses and the construction of accessory buildings connected with agriculture or the building of a residence, including storage of temporary camping and lawn maintenance equipment. Said accessory building shall not be used for temporary sleeping or camping quarters. Pig pens are not permitted. Operation of any laying hen, broiler houses or other poultry business is prohibited. Pig pens are prohibited.

(c) Not more than one (1) head of livestock per acre shall be permitted per lot, unless otherwise approved by the Board of Directors of the Property Owners Association.

9. The Owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any Lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of Owner or his contractor enroute to or from Owner's lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.

10. No building shall be erected closer than fifty (50)

feet from the property line which adjoins the subdivision road, nor closer than twenty (20) feet to the side or rear property lines.

11. All sanitation facilities constructed on any lot shall conform with the regulations of the West Virginia County Health Department. No privies may be constructed and maintained on any Lot. During construction of a house or cabin, portable toilets that are health department approved may be used for a period not to exceed eight months.

12 No building shall be constructed and no well shall be drilled on any lot until a sewage disposal permit has been obtained from the West Virginia Health Department.

13. Declarant guarantees for a period of one year from the date that it: delivers a general warranty deed to Owner, or if Owner is purchasing under installment contract, for a period of one year from the date of the signing of the contract, that at least one location located on each lot sold or conveyed unto Owner will pass a soil percolation test administered by a certified septic tank installer (installer must be approved by the local sanitarian at the Hampshire County Health Department) so that the Owner may obtain a health permit which would enable him to build at least a two bedroom dwelling house on the real estate. Any soil percolation test obtained by Owner shall be at his own expense.

14. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a manner satisfactory to the Board of Directors of the Property Owners Association, upon majority vote of the Board of Directors, and after fifteen (15) days notice to the Lot Owner, the Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance repairs (including mowing and removal of grass over 12" high by brush hogging the lot), and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment to which such lot is subject.

16. The Declarant reserves for its benefit and the benefit of the Association an easement for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable t. v., electric and water lines on, over, above, and under a strip of land fifteen (15) feet wide along

432

all property lines not serving as the centerline for rights-of-ways, and fifteen (15) feet along the outer boundary of all subdivision roadways, in addition to easements reserved by any other instrument duly recorded. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

17. Each lot owner shall have an unobstructed and nonexclusive forty foot right of ingress and egress to and from his lot over the rights-of-ways and roadways as shown on the subdivision plat, and a forty foot right-of-way in width over the private road which leads from the Public across the properties of Glenn Timbrook and Gay Timbrook. The Association shall be solely responsible for maintenance of the subdivision roads, and the Association shall maintain the Access road that crosses Glenn Timbrook and Gay Timbrook's land to the subdivision in common with Glenn Timbrook and Gay Timbrook.

18. Trees may be harvested and removed from the land only insofar as it is reasonably necessary to clear land for a house, yard and garden. No trees may otherwise be harvested or cut.

19. The use of any motorcycle, dirt bike, all terrains vehicles, or other similar motorized conveyance within the subdivision is prohibited.

20. Firearms shall not be discharged within five hundred (500) feet of any dwelling house. Nor shall they be discharged in such a manner that the trajectory of the projectile shall cross any of the subdivision roadways.

21. There are no restrictions on the amount which an Owner may receive from the sale of his Lot.

22. Declarant reserves the right to maintain a sales office and/or, management offices in or on any of the lots so long as the sales promotion is ongoing. The sales office may be a tent, mobile trailer, or other structure of Declarant's choosing, and if desirable, Declarant may move the office from time to time. Declarant reserves the right to place for sale signs on the Lots for so long as he owns same. Until such time as the sales promotion is completed, Declarant reserves the right to place, replace and maintain for sale signs on the common elements of Sherman Estates.

23. Any mobile or temporary headquarters that are placed on any Lot shall be promptly moved as soon as Declarant has completed the sales promotion.

24. The Association, or any Owner, shall have the right to

enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association 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.

25. Invalidation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and effect.

26. 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.

Dated this the 8th day of September, 1990

Homer L. Feller
Homer L. Feller

Nancy C. Feller
Nancy C. Feller

Richard L. Feller POA Charles W. Feller
Richard L. Feller

Charles W. Feller
Charles W. Feller

Brenda Feller
Brenda Feller

State of West Virginia,
County of Hampshire, to-wit:

The foregoing instrument dated September 8th, 1990, was acknowledged before me this the 21st day of January, 1993, by Homer L. Feller and Nancy C. Feller, his wife, Richard L. Feller, single, and Charles W. Feller and Brenda Feller, his wife.

My commission expires April 19, 2000

Cathy L. Elza
Notary Public

This instrument prepared by
Oscar M. Bean, Attorney
116 Washington St., Drawer 30
Moorefield, W. Va. 26836



OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CATHY L. ELZA
P. O. BOX 264
SPRINGFIELD WV 26763
My Commission Expires April 19, 2000

BEAN & BEAN
ATTORNEYS AT LAW
116 WASHINGTON STREET
JDR

STATE OF WEST VIRGINIA, County of Hampshire, to-wit:

Be it remembered that on the 21st day of January, 1993, at 3:00 P.
this Covenants was presented in the Clerk's Office of the County Commission of said County
and with the certificate thereof annexed, admitted to record.

Attest Nancy C. Feller Clerk
County Commission, Hampshire County, W. Va. shl