

# Alpine AILake



**DECLARATION OF RESTRICTIONS**

**ARTICLES OF INCORPORATION**

**PROPERTY OWNERS BYLAWS**



# DECLARATIONS OF RESTRICTIONS

## ALPINE LAKE

THIS DECLARATION, made this 1st day of March, 1971, by MOUNTAINTOP DEVELOPMENT COMPANY, a West Virginia Corporation, herein referred to as "Declarant."

## WITNESSETH

WHEREAS, Declarant is the owner of all the real property set forth and described on that certain plat (herein called "the plat") entitled "Alpine Lake", Swiss Section, which plat is to be recorded herewith in the office of the Clerk of the County Court of Preston County, West Virginia, and is made a part hereof and incorporated herein by reference; and

WHEREAS, all of the real property described in the plat comprises in the aggregate a part of the Alpine Lake general subdivision (herein called "Subdivision"); and

WHEREAS, there are subdivided numbered lots set forth and described in the recorded plat, which numbered lots comprise in the aggregate a single subdivision section (herein called "Section") which is one of several sections contemplated in the Alpine Lake general subdivision, which other sections shall be developed from adjoining lands owned by Declarant; and

WHEREAS, Declarant is about to sell and convey said lots and before doing so desires to subject them to and impose upon them mutual and beneficial restrictions, covenants, conditions and charges, hereinafter collectively referred to as "Restrictions", under a general plan or scheme of improvement for the benefit and complement of all of the lots in the Section and Subdivision, and the future owners of said lots;

NOW, THEREFORE, Declarant hereby declares that all of said lots are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the Subdivision, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the property described in the plat and of the Subdivision as a whole. All of the Restrictions shall run

with the land and shall be binding upon Declarant and upon all parties having or acquiring any right, title or interest in and to the real property or any part of parts thereof subject to such Restrictions.

## **1. APPLICABILITY**

A. These Restrictions shall apply to all subdivided numbered lots which are for residential purposes only, but these restrictions shall not be applicable to such lands now or hereafter designated on the plat or otherwise as parcels or as lands of Declarant, which parcels and lands are intended for commercial, multiple dwellings, condominium or hotels, or recreational uses.

## **2. TERM**

A. These Restrictions shall affect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until January 1, 2001. By accepting a deed to residential property subject to these Restrictions, the residential owners agree that after January 1, 2001, these restrictions shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the covenants in whole or in part, provided, however, that at any time before January 1, 1986, these Restrictions may be amended by the vote of the then record owners of two-thirds (2/3) of such residential lots and thereafter by a majority of said owners except as otherwise provided herein.

B. Declarant reserves to itself, its successors and assigns the right to revoke at any time prior to the sale of any lot within a Section or Subdivision all or any part of these Restrictions and further to vacate any or all of the streets, parks, recreational facilities and any other amenity now or hereafter shown on any recorded plans, provided, however, that Declarant will not prevent access to or installation of utilities to lots in any other Section of the Subdivision.

## **3. MUTUALITY OF BENEFIT AND OBLIGATION**

A. The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Section and the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the

owner of each such lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the Section and Subdivision and their respective owners. Restrictions substantially the same as those contained herein shall be recorded on all future sections of the Subdivision in conformity with the general scheme of improvement of all lands to be included therein.

**4. EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS**

A. No numbered lot shall be used except for single family residential purposes. No structure shall be erected, placed or permitted to remain on any lot other than one (1) detached, single family residence dwelling and such outbuildings as are usually accessory to a single family residence dwelling including a private garage.

**5. ENVIRONMENTAL CONTROL COMMITTEE**

A. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any lot shall be subject to and shall require the approval in writing before any such work is commenced of the Environmental Control Committee (herein called "Committee"), as the same is from time to time composed.

B. The Committee shall be composed of three (3) members to be appointed by Declarant. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment of Declarant, or in the event of Declarant's failure to so appoint within two (2) months after any such vacancy, then by the Board of Directors of the Alpine Lake Property Owners Association (hereinafter called "Association"); provided, however, that at any time hereafter the Declarant may, at its sole option, relinquish to the Board of Directors of the Association the power of appointment and removal reserved herein to the Declarant. Such transfer of power must be evidenced in writing.

C. There shall be submitted to the Committee two (2) complete sets of the final plans and specifications for any and all proposed improvements, the erection or alteration of which is desired, and no structures or improvements of any kind shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall include plot plans showing the location on the lot of the building, wall, fence

or other structure proposed to be constructed, altered, placed or maintained, together with the proposed construction material, color schemes for roofs and exteriors thereof and proposed landscape planting. A filing fee of \$30.00 shall accompany the submission of such plans to defray Committee expenses. No additional fee shall be required for resubmission of plans revised in accordance with Committee recommendations.

D. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof. One (1) set 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 Committee for its permanent files.

E. The Committee then shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of these Restrictions, if the design or color scheme 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 submitted are incomplete, or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final and not subject to appeal or review.

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

## **6. SIZE AND PLACEMENT OF RESIDENCES AND STRUCTURES**

A. Every residence dwelling constructed on a lot shall contain a minimum of 760 square feet on the first floor of fully enclosed floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, garages, carports and other outbuildings) and no such dwelling shall exceed 2½ stories in height.

B. The Committee shall have the authority to establish regulations pertaining to the height and size requirements of all other types of structures, including but not limited to fences, walls and copings. Such regulations shall, in the Committee's sole discretion, conform with the general development scheme.

C. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Subdivision, all property lines shall be kept free and open one to another and no fences shall be permitted on any lot or lot lines except where, in the opinion of the Committee, 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.

D. Except as is hereafter provided in 6-E, the following minimum dimensions shall govern for front, side and rear setbacks on all lots (except fences or walls where approved or required by the Committee), with respect to any dwelling house or above grade structure that may be constructed or placed on any lot in the Subdivision:

(a) Thirty (30) feet from the front line of each lot abutting a street;

(b) Fifteen (15) feet from each lot side line;

(c) Twenty (20) feet or twenty-five percent (25%) of the depth of the lot, whichever is greater, from the rear line of each lot.

E. No change in ground level may be made of any lot in excess of one foot in height over existing grades without the written approval of the Committee obtained prior to the commencement of work.

**7. PARTICULAR RULES FOR APPLICATION OF SETBACK REQUIREMENTS**

A. If the line from which a setback is to be measured is a meandering line, the average length of the two lot lines intersecting the meandering line shall be determined, and using that average length, an imaginary straight line shall be drawn through the meandering line and the setback measurement shall be made along a line perpendicular to such imaginary line.

B. The term “side line” defines a lot boundary line that extends from the street on which the lot abuts to the front or rear line of the lot.

C. The term “rear lot line” defines the boundary line of the lot that is farthest from, and substantially parallel to, the line of the street on which the lot abuts, except that on corner lots it may be determined from either street line.

D. A corner lot shall be deemed to have a front line on each street on which the lot abuts, and such lot need only have one rear yard as defined by 6-D(c).

## 8. GENERAL PROHIBITIONS AND REQUIREMENTS

A. The following general prohibitions and requirements shall prevail as to the construction or activities conducted on any lot in the Subdivisions:

- (a) No outside toilet or individual water well shall be constructed on any lot. All plumbing fixtures, dishwashers or toilets shall be connected to the sewage system. Storm water shall not be allowed to flow into the sewage system.
- (b) No temporary house, trailer, camper travel trailer, tent, garage, or other outbuilding shall be placed or erected on any lot, provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during construction. No such temporary structures as may be approved shall be used at any time as a dwelling place, nor shall any overnight camping be permitted on any lot.
- (c) Once construction of improvements is started on any lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within six (6) months from commencement.
- (d) No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications and a certificate of occupancy has been issued by the Committee.
- (e) All structures constructed or placed on any lot shall be built of substantially new material and no used structures shall be relocated or placed on any such lot.
- (f) No animals or livestock of any description, except the usual household pets, shall be kept on any lot.
- (g) No sign (including but not limited to "For Sale" or similar signs), billboard, or other advertising structure of any kind may be erected or maintained upon any lot except after applying to and receiving written permission from the Committee.
- (h) No stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or lot.
- (i) Every fuel storage tank shall be buried below the surface of the ground or screened by fencing or shrubbery to the satisfaction of the Committee. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground,

- screened or so placed and kept as not to be visible from any street, lake or recreation area.
- (j) All outdoor clothes poles, clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any street, lake or recreation area.
  - (k) No structure erected upon any lot may be used as a model exhibit or house unless prior written permission to do so shall have been obtained from the Committee.
  - (l) All lots, whether occupied or unoccupied, and any improvements thereon shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.
  - (m) No noxious, offensive or illegal activities shall be carried on on any lot nor shall anything be done on any lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.
  - (n) No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.
  - (o) No vehicle shall be parked on any street in the Subdivision. No truck shall be parked for storage overnight or longer, on any lot, in such a manner as to be visible to the occupants of other lots or the users of any street, lake or recreation area, unless prior written approval from the Committee has been obtained.
  - (p) Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the lot restored to a slightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than six (6) months.
  - (q) No tree over five (5) inches in diameter shall be removed from any lot without the prior written consent of the Committee.
  - (r) No radio station or shortwave operators of any kind shall operate from any lot or residence. No exterior television or radio antenna of any kind shall be constructed or erected on any lot or residence after such time as a central television system has been made available at rates commensurate with those prevailing in the area.

- (s) No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any lot or upon any recreational area in the Subdivisions. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted. In order to enhance the appearance and orderliness of the Subdivisions, the Declarant hereby reserves for itself, its successors and assigns, the exclusive right to operate, or from time to time to grant an exclusive license to a third party to operate a commercial scavenging service for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided not less often than once each week on a day or days designated by the Declarant or its successors or assigns. The charge for such refuse collection and removal service is to be paid by the lot owner and shall be commensurate with the rates charged by commercial scavengers serving other subdivisions of high standards in the area, and shall be subject to change from time to time.
- (t) There shall be no access to any lot on the perimeter of the Subdivisions except from designated roads within the Section or Subdivision.

## **9. VARIANCES**

A. The Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes of the general development scheme 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 or the Subdivisions.

## **10. EASEMENTS**

A. Declarant reserves for itself, its successors and assigns, for purposes incident to its development of the real property subject to these Restrictions, the following easements and/or rights-of-way:

- (a) A 15-foot easement and right-of-way over each lot as Declarant may deem necessary for the use and maintenance of storm and sanitary sewers and the installation of all other utility services.

- (b) A 10-foot wide easement along each side of all road rights-of-way and a 7½ foot wide easement along all other property boundary lines for the purpose of installing, operating and maintaining utility lines and mains. It also reserves the right to trim, cut and remove any trees and brush and to locate guy wires and braces wherever necessary for the installation, operation and maintenance, together with the right to install, operate and maintain electric, cable television, gas water and sewer mains and other services for the convenience of the property owners and appurtenances thereto; reserving also the right of ingress and egress to such other areas for any of these purposes.
- (c) Such other easements or rights-of-way as may be needed for the natural and orderly development and occupation of the Subdivisions.

B. Declarant reserves for itself, its successors or assigns, an exclusive easement for the installation and maintenance of radio and television transmission cables within the rights-of-way and easement areas reserved and defined above.

C. On each lot, the rights-of-way and easement areas reserved by Declarant or dedicated to public utilities purposes shall be maintained continuously by the lot owner but no structures, plantings or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, which may change the direction of flow of drainage channels in the easements, which may obstruct or retard the flow of water through drainage channels in the easements, or which damage or interfere with established slope ratios or create erosion or sliding problems, provided, however, that where the existing location of drainage channel would hinder the orderly development of a lot, the drainage channel may be relocated, provided such relocation does not cause an encroachment on any other lot in the Subdivision. Improvements within such areas shall also be maintained by the respective lot owner except for those for which a public authority or utility company is responsible.

D. The lots shall be burdened by such additional easements as may be shown on any recorded plats.

E. Every lot in the Subdivision, if any, that lies contiguous to a lake shall be subject to a flowage easement to an elevation on the lot equal to the high water elevation of such lake.

## **11. OWNERSHIP, USE AND ENJOYMENT OF STREETS, PARKS AND RECREATIONAL AMENITIES**

A. Each of the streets in the Subdivisions now or hereafter designated on any plat is a private street, and every park, recreational facility, and other amenity within the Subdivisions is a private park, facility or amenity and neither Declarant's execution nor recording of the plat nor any other act of Declarant with respect to the Property is, or is intended to be, or shall be construed as a dedication to the public of any of said streets, parks, recreational facilities and amenities other than as reflected therein. An easement for the use and enjoyment of each of said streets and areas designated as parks is reserved to Declarant, its successors and assigns; to the persons who are, from time to time, members or associate members of the Alpine Lake Property Owners Association, Inc.; to the members and owners of any recreational facility; to the residents, tenants, and occupants of any multi-family residential buildings, guest house, inn or hotel facilities, and all other kinds of residential structures that may be erected within the boundaries of the Property and to the invitees of the Declarant and all the aforementioned persons; the use of which shall be subject to such rules and regulations as may be prescribed by Declarant or the Association, if the Association is the owner of the facility or property involved.

B. The ownership of the recreational amenities within the Property which may include but shall not be limited to lakes, dams, streets, roads, marinas, beaches, lake access tracts, golf courses, tennis courts, swimming pools, clubhouses and adjacent clubhouse grounds, and campgrounds and any other recreational property whether developed or undeveloped shall be in Declarant or its successors or assigns and the use and enjoyment thereof shall be on such terms and conditions as Declarant, its successors or assigns, shall from time to time license; provided, however, that any one or all of such amenities may be conveyed to the Association, which conveyance shall be accepted by it, provided the same is free and clear of all financial encumbrances.

## **12. ALPINE LAKE PROPERTY OWNERS ASSOCIATION**

A. Every person before acquiring title, legal or equitable, to any lot in the Subdivisions must be a member of the Alpine Lake Property Owners Association, a West Virginia non-profit Corporation, herein referred to as "Association", and no such person shall acquire such title until he has been approved for Membership in the Association, nor shall the owner of a lot or lots in the Subdivisions convey title to said lot or lots to any person who has not been approved in writing for membership in the Association, provided, however, that such membership is not intended

to apply to those persons who hold an interest in any such lot merely as security for the performance of an obligation to pay money, e.g., mortgages, deeds of trust, or real estate contract purchases. However, if such a person should realize upon his security and become the real owner of a lot, he will then be subject to all the requirements and limitations imposed in these Restrictions on owners of lots within the Subdivision and on members of the Association, including those provisions with respect to alienation and the payment of an annual charge.

B. The general purpose of the Association is to further and promote the community welfare of property owners in the Subdivisions.

C. The Association shall be responsible for insect controls, for the maintenance, repair and upkeep of the private streets, and parks within the Subdivision; the appurtenant drainage and slope easements reserved by Declarant; all waterways, bulkheads and other waterfront improvements and shall be responsible for providing fire and police protection for the residents of the Subdivision. The Association shall also be the means for the promulgation and enforcement of all regulations necessary to the governing of the use and enjoyment of such streets and parks and such other properties within the Subdivision as it may from time to time own. In the event that the Association at any time fails to properly maintain such streets, parks, easements, waterways and bulkheads and other waterfront improvements or fails to provide adequate fire and police protection, Declarant, its successors and assigns, may in its sole discretion enter upon and make any and all repairs to any such facility which it deems to be necessary and proper or may adopt measures to provide fire and police protection and may charge the Association for all such repairs or fire and police protection; provided, however, that Declarant shall under no circumstances be obligated to take any such action.

D. The Association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including (but not limited to) the power to levy against every member of the Association a uniform annual charge per single-family residential lot within the Subdivisions, the amount of said charge to be determined by the Board of Directors of the Association after consideration of current maintenance needs and future needs of the Association, for the purposes set forth in its Articles of Incorporation; provided however, that the uniform annual charge shall in no event be less than \$30.00 per year for road maintenance. No such charge shall ever be made against, or be payable by, the Declarant, the Association itself, or any corporation or corporations that may be created to acquire title to, and operate, the water or sewer utilities serving the area, or any lakes, dams, beaches, lake access tracts,

marinas, golf courses, tennis courts, swimming pools, clubhouse grounds, campgrounds, hotels, lodges, motels, or other like facilities owned by the Declarant or its assigns.

- (a) Every such charge so made shall be paid by the member to the Association or its designee on or before the first day of May of each year, for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per lot on or before the first day of April of each year, and written notice of the charge so fixed shall be sent to each member.
- (b) If any such charge shall not be paid when due, it shall bear interest from the date of delinquency at the rate of six per cent (6%) per annum. The annual charge shall, if unpaid within 30 days of its due date, become a lien or encumbrance upon the land and acceptance of each deed, not including acceptance by a mortgage or deed of trust shall be construed to be a covenant to pay the charge. The Association may publish the names of the delinquent members, and may record a lien to secure payment of the unpaid charge plus costs and reasonable attorneys' fees. Such lien shall become an encumbrance upon the subject lot when recorded in the office of the Clerk of the County Court of Preston County, West Virginia. Every such lien may be foreclosed at any time. In addition to the remedy of lien foreclosure, the Association shall have the right to sue for such unpaid charges, interest costs, and reasonable attorneys' fees, in any court of competent jurisdiction as for a debt owed by any delinquent member to the Association. Every person who shall become the owner of the title (legal or equitable) to any lot in the Subdivisions by any means shall be conclusively held to have covenanted to pay the Association or its designee all charges that the Association shall make pursuant to any paragraph or subparagraph of these Restrictions or its Bylaws. Any lot acquired is taken subject to the lien for any prior unpaid charges.
- (c) The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association certifying that the charges on a specified lot have been paid or that certain charges against said lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any charges therein stated to have been paid.

E. The fund accumulated as the result of the charges levied by the Association shall be used exclusively to promote the recreational facilities of, and the health, safety and welfare of the members of the Association and in particular for the improvement and maintenance of the streets, those areas designated as parks, and other property within the Subdivisions which shall have been conveyed to or acquired by the Association.

F. The lien of a mortgage or deed of trust representing a first lien placed upon any lot for the purpose of permanent financing and/or constructing a residence or other improvement thereon recorded in accordance with the laws of West Virginia, shall be, from the date of recordation, superior to any and all such liens provided for herein.

G. The Board of Directors of the Association shall have the right to suspend the voting rights (if any) and the right to use of the recreational facilities of the Association or of Declarant of any member:

- (a) For any period during which any Association charge (including the charges and the fines, if any, assessed under paragraphs 12-D, 13 and 14 of these Restrictions) owed by the member remains unpaid;
- (b) During the period of any continuing violation of the restrictive covenants for the Subdivision, after the existence of the violation shall have been declared by the Board of Directors of the Association;
- (c) During the period that any utility bill for water or sewer service or garbage collection or Cable Television service rendered to the member or associate member shall remain unpaid.

### **13. MOTOR VEHICLE SPEED LIMITS**

A. Speed limits for streets and the rules governing the use of parks within the Subdivisions shall be promulgated from time to time by Declarant, its successors and assigns. Appropriate postings of these speed limits shall be made. The Association shall have the power to assess fines for the violation of the motor vehicle speed limits in accordance with a schedule of fines promulgated by the Association. Every such fine shall be paid promptly upon its being assessed; if it is not, the Association may add the amount of the fine to the annual charge made by the Association, pursuant to subparagraph 12-D of the Restrictions, and the amount of such fine shall be collectible by the same means as are prescribed in said subparagraph for the collection of delinquent annual charges of the Association or through the use of the sanctions prescribed in subparagraph 12-G of the Restrictions.

B. No vehicle except a duly licensed vehicle shall be operated on any street and no such vehicle shall be operated except by a duly licensed operator.

#### **14. ASSOCIATION'S RIGHT TO PERFORM CERTAIN MAINTENANCE**

A. In the event an owner of any lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association shall have the right, through its agents and employees, to enter upon said lot and repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. Such right shall not be exercised unless two-thirds of such Board of Directors shall have voted in favor of its being exercised. The cost of such exterior maintenance shall be added to and become part of the annual charge to which such lot is subject and until paid shall be a lien on said lot.

#### **15. PROVISIONS IN RESPECT OF LAKES AND LOTS CONTIGUOUS THERETO**

A. The water in, and the land under, Alpine Lake or lakes as shown on the plan, is and will be owned by the Declarant, its subsidiaries or its successors and assigns. The title that will be acquired by the grantee of the Declarant's title to any lot fronting on said lake (and by the successors and assigns of such grantee) shall extend only to such point as designated on the plan and in no event shall it extend beyond the shoreline of the lake to which such lot is fronting or contiguous. No such grantee, nor any of such grantee's successors or assigns, shall have any right with respect to any stream, spring or other water source that is tributary to said lake or with respect to said lake, and the land thereunder, the water therein, or its elevation, use, or condition and none of said lots shall have any riparian rights or incidents appurtenant; provided, further, that title shall not pass by reliction or submergence or changing water elevations. The Declarant, its successors and assigns, shall have the right at any time to dredge or otherwise remove any accretion or deposit from any of said lots in order that the shoreline of the lake may be moved toward or to, but not inland beyond, the location of said shoreline as it would exist as of the date that the new lake and dam now under construction is completed.

#### **16. RESERVATION OF EASEMENT OF DECLARANT FOR OPERATION OF LAKE**

A. The Declarant reserves to itself, and its successors and assigns, such an easement upon, across and through the lakefront portion of

each of said lots contiguous to said lake as is reasonably necessary in connection with operating said lake. Without limiting the generality of the immediately preceding sentence, it is declared that neither the Declarant nor any successor or assign of the Declarant shall be liable for damages caused by ice, erosion, washing, flooding or other action by the water.

## 17. RIGHTS OF FIRST REFUSAL

A. Whenever the owner of any lot in the Section or Subdivision other than the Declarant shall receive a bona fide offer to purchase said lot, which offer is acceptable to said owner or shall independently decide to put said lot on the market, said owner shall offer to sell said lot, at the price and on the same terms contained in said bona fide offer or (if said owner shall independently have decided to put said lot on the market) at the price and on the terms acceptable to said owner, first to the owner of the lot on the right of the prospective seller's lot, next the owner of the lot on the left of the prospective seller's lot, and finally, to the Declarant, its successors or assigns. Such offerings shall be made successively, and each of said offerees shall have ten (10) days within which to accept or refuse such offer. If all said offerees refuse to purchase said lot at the price and on the terms proposed by said owner, said owner shall be free, subject to the limitations contained herein requiring the purchaser to have been approved for membership in the Alpine Lake Association to sell said lot to the party who shall have made said bona fide offer or (if said owner shall have independently decided to put said lot on the market) to any third party, in either case at a price and on terms not substantially more favorable to the purchaser than those offered, as aforesaid, to said owner's neighbors and the Declarant or its successors or assigns. The "lot on the right," for the purposes of this Paragraph 17 shall be the next lot on one's right hand as one faces the rear of one's own lot.

B. In the event that the owner of any lot in the Section or Subdivision should desire to exchange his lot for another lot in the Section or Subdivision, and the Declarant is agreeable to do so, the provisions for first refusal set forth in subparagraph A of this paragraph 17 shall not apply; and the owner shall be free to reconvey his lot to the Declarant in exchange for a conveyance to him of the other lot in the Section or Subdivision, without the necessity of making any offerings to said owner's neighbors, upon such terms as the Declarant and the owner shall then agree.

## 18. CHARGES FOR WATER AND SEWER SERVICE

A. Every owner (legal or equitable) of a lot in the Section or Subdivision shall be conclusively presumed to have covenanted, by acquiring title to his lot (regardless of the means of such title acquisition) to pay charges

for water service in accordance with rates as approved from time to time by the Public Service Commission of West Virginia or its successors in interest having jurisdiction in the premises. It is presently intended that the rates and charges for water service to be initially submitted to the Public Service Commission of West Virginia for its approval shall be as follows: The rate of Three Dollars (\$3.00) per month commencing upon the availability of water to serve the lot; at such time as the owner of a lot shall elect to have service connected, he shall pay a connection charge of Three Hundred Eighty-five Dollars (\$385.00); thereafter, he shall pay for water service at reasonable consumption rates, subject to a minimum monthly charge, all such rates and charges being subject to the prior approval of the Public Service Commission of West Virginia.

B. Every owner (legal or equitable) of a lot in the Section or Subdivision shall be conclusively presumed to have covenanted, by acquiring title to his lot (regardless of the means of such title acquisition) to pay charges for sewer service in accordance with rates as approved from time to time by the Public Service Commission of West Virginia or its successors in interest having jurisdiction in the premises. It is presently intended that the charges with regard to sewer service to be initially submitted to the Public Service Commission of West Virginia for its approval shall be as follows: Charges for sewer service shall be at the rate of Two Dollars (\$2.00) per month commencing upon the availability of sewer to serve the lot; at such time as the owner of a lot has service connected, he shall pay a connection charge of Seven Hundred Eighty-five Dollars (\$785.00) and a line installation charge of Two Hundred Twenty-eight Dollars (\$228.00) or such other charges as may be approved by the Public Service Commission of West Virginia; thereafter, he shall pay for sewer service at reasonable rates, subject to a minimum monthly charge, all such rates and charges being subject to the approval of the Public Service Commission of West Virginia. Lot owners shall be required to connect to said sewer system before the completion of construction of the dwelling on the lot. Easements in addition to those reserved throughout these restrictions and on the recorded plats shall be granted for the practical construction, operation and maintenance of said sewer facilities upon request of the Declarant or the applicable utility.

## **19. REMEDIES**

A. The Declarant, Association or any party to whose benefit these Restriction inure may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions and the court in any such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

B. The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity, or under any statute. No delay or failure on the part of Declarant, the Association or an aggrieved party to invoke an available remedy in respect of a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence of continuation of said violation or the occurrence of a different violation.

## 20. GRANTEE'S ACCEPTANCE

A. The grantee of any lot subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereto, or the execution of a contract for the purchase thereof, whether from Declarant and the Association, or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with the Declarant and the Association, and to and with the grantees and subsequent owners of each of the lots within the Subdivision to keep, observe, comply with and perform said Restrictions and agreements.

B. Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership or occupancy attendant to such lot, including but not limited to its proximity to any recreational facility.

C. Each such grantee whose lots are adjacent to an available underground electrical service, if any, also agrees to complete the underground secondary electrical service to their respective residences.

## 21. SEVERABILITY

A. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of the Restrictions.

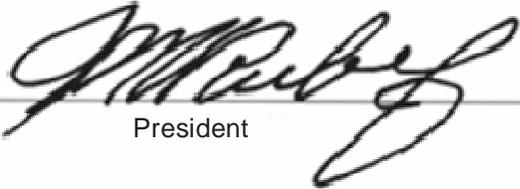
## **22. CAPTIONS**

A. The captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, the said Declarant has caused its corporate name to be signed hereto by its President and its corporate seal to be affixed hereto by its Secretary by authority of its Board of Directors duly given.

DECLARATION OF RESTRICTIONS

MOUNTAINTOP DEVELOPMENT COMPANY

By  \_\_\_\_\_  
President

ATTEST:

 \_\_\_\_\_  
Secretary

STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, ss:

I, Geo. R. Farmer, Jr., a Notary Public in and for the County and State aforesaid, do hereby certify that J. W. Ruby, who signed the foregoing writing for Mountaintop Development Company, a West Virginia Corporation, bearing date the 1st day of March, 1971, 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 20 day of March, 1971.

My commission expires August 25, 1974.

Geo. R. Farmer Jr.  
Notary Public in and for  
Monongalia County,  
West Virginia

This document prepared by GEO. R. FARMER, JR., Attorney at Law,  
Citizens Building, Morgantown, West Virginia.



**ARTICLES OF INCORPORATION  
OF  
ALPINE LAKE PROPERTY OWNERS  
ASSOCIATION, INC.  
AS AMENDED AND RESTATED**

**ARTICLE I**

Under the provisions of Chapter 31, Article 1, Section 136 et seq. of the West Virginia Corporation Act of 1974, the undersigned Incorporators agree to become a nonprofit Corporation.

The name of the Corporation shall be:

**ALPINE LAKE PROPERTY OWNERS ASSOCIATION, INC.**  
(Herein called "ASSOCIATION")

**ARTICLE II**

The principal office or place of business of the Corporation is Portland District, Preston County, West Virginia. The Post Office address is 700 West Alpine Drive, Terra Alta, West Virginia, 26764.

**ARTICLE III**

The purposes for which the Association is formed are as follows:

1. To further promote the community welfare of property owners in the residential community in Preston County, West Virginia, known as "ALPINE LAKE", and to exercise the powers and functions granted to it in, or pursuant to, the restrictive covenants applicable to Alpine Lake, or any part thereof, and any other restrictive covenants that may have been or may be recorded in respect of Alpine Lake, or any part of it.
2. To care for, maintain, and repair certain vacant and unimproved and unkept lots and certain common area of Alpine Lake, or any part thereof; to repair, rebuild and maintain any structure or residence on any lot in Alpine Lake for the purpose of preventing that structure or residence from becoming rundown and to repair, maintain,

rebuild or beautify any street or right of way, and all parks within Alpine Lake that are not subject to maintenance by governmental authority.

- 3 . To provide for the payment of taxes and assessments; if any, that may be levied by any governmental authority upon any area in Alpine Lake conveyed to the Association.
- 4 . To enforce charges, easements, restrictions, conditions, covenants, and servitudes existing upon and created for the benefit of the property over which the Association may have jurisdiction; to pay all expenses incidental thereto; to enforce the decisions and ruling of the Association; and to pay all expenses in connection therewith.
- 5 . To provide for the maintenance of parks, recreational facilities, and other community feature of such land in Alpine Lake as may be conveyed to the Association; and to provide for the maintenance of bulkheads and waterways and those areas designated on the Association's plats of Alpine Lake as pedestrian easements as may be conveyed to the Association; and further to be responsible for providing security for the residents of Alpine Lake.
- 6 . To appoint committees as may be necessary to, or convenient in, the Association's discharging of duties entrusted to it, including (but not limited to) a property owner's committee, building control committee, traffic control committee, finance committee, maintenance committee, audit committee and nominations and elections committee.
- 7 . To levy an annual charge upon the members of the Association; to sue and to collect any of such charges as are not paid; to impose a lien against any real estate in Alpine Lake that is owned by a delinquent member of the Association for any such charge as is not paid when due; and to foreclose any such lien. Each year the Board of Directors of the Association shall consider the current maintenance needs and future of the Association and, in light of those needs shall fix the amount of the annual charge provided for in these Articles, in respect of each numbered single-family residential lot; and which shall be as the Board of Directors determines for multi-family dwelling unit lots. However, the Board of Directors may not increase any annual assessment by more than 10% of the assessment for the prior year, unless a proposed increase of over 10% is approved, by a majority vote, of members present at the annual meeting of the association or any special meeting called by the Board of Directors. This paragraph does not create in the Association a power to levy or make any charge of

- any kind against the association itself or against any corporation that has been or may be created to acquire title to and operate, the water, sewer or cable television utilities serving Alpine Lake, or any waterway, dam, beach, access tract, marina, golf course, tennis courts, clubhouse, clubhouse grounds, or other like recreational facility within Alpine Lake.
8. To acquire by gift, purchase or other means, to own, hold, enjoy, lease, operate, maintain, convey, sell, transfer, mortgage or otherwise encumber, or dedicate for public use, real or personal property in connection with the business of this Association.
  9. To spend the money collected by the Association from assessments or charges, and other funds received by the Association, for payment and discharge of all proper costs, expenses, and obligations incurred by the Association in carrying out its purposes.
  10. To borrow money and to give, as security therefore, mortgage or other security interest in any or all real personal property owned by the association or a pledge of monies to be received under Paragraph 7 of these Articles, and to assign and pledge its right to make assessments and charges and its right to claim a lien therefor.
  11. To do any and all lawful things and acts, and to have any and all lawful powers, which a corporation organized under West Virginia law may do and have, and in general to do all things necessary and proper to accomplish these purposes including, without limitations, the power to appoint any person or corporations as its fiscal agent to collect all assessments and charges levied by the Association and to enforce the Association's liens for unpaid assessments and charges or any other lien owned by the Association.

#### **ARTICLE IV Nonstock-Nonprofit**

The Association is not authorized to issue any capital stock or to be for profit. No part of the income of the Association shall inure to the benefit of any member, director or officer of the Association. In the event of liquidation or dissolution of the Corporation, whether voluntary or involuntary, no member, officer, or director of the Association is entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Association, after payment of all debts and obligations, shall be applied to such public or charitable purposes as shall be determined by the

County Commissioners of Preston County, West Virginia, serving at such time or their successors in the interest under the form of government then in being.

## **ARTICLE V Membership**

- 1 . The members of the Association are those persons or corporations who are owners (legal or equitable) of numbered residential lots in Alpine Lake. A person who has no interest in real estate in Alpine Lake other than an interest that is held merely as security for the performance of any obligation to pay money (e.g., the interest of a mortgagee or a land contract vendor) is not entitled to be a member of the Association.
2. Membership in the Association terminates when the member ceases to be the owner of a numbered residential lot in Alpine Lake.
- 3 . Meetings of members shall be held within the boundaries of Alpine Lake, as may be provided in the By-laws, or where not inconsistent with the By-laws, in the notice of the meeting. An annual meeting of the members shall be held at such time as may be provided in the By-laws. The Association shall send to each member entitled to vote at the meeting a written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose for which the meeting is called, not less than ten nor more than fifty days before the date of the meeting (except as a different time is specified below), either personally or by mail, by or at the direction of the President or the Board of Directors. If mailed, the notice is considered to be delivered when deposited in the United States Mail addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid. In lieu of delivering notice as above, the Association may publish the notice at least once a week for two successive calendar weeks in a newspaper published in the city or county in which the registered office is located, or having a general circulation therein, the first publication to be not more than fifty days, and the second not less than seven days, before the date of the meeting.
- 4 . The members of the Association shall be divided into two classes: "Regular" members and "Development / Sales" members.

### **Regular Members**

Regular members are those members who own less than twenty lots and whose primary interest in ownership is residency,

visitation or investment. Regular members shall be entitled to one vote for each numbered residential lot in the Subdivision that is owned by the member and will be subject to the full amount of the annual assessment on each lot.

#### **Development / Sales Membership**

Development / Sales Membership is restricted to individuals or firms who own twenty lots or more and whose purpose in ownership is the sale and development of lots. This class of membership carries no voting rights. The Board of Directors shall fix the basic yearly assessment for lots held under the Development / Sales classification. The basic assessment shall apply to each lot owned by the Development / Sales Members so long as there are at least twenty (20) lots owned by the individual or firm entitled to this classification. In the event the number of lots falls below twenty (20), but more than ten (10) owned by the individual or firm, the assessment shall be One Hundred Fifty Percent (150%) of the basic assessment per year per lot. In the event the number of lots falls below ten (10) owned by the individual or firm, the assessment shall be Two Hundred Twenty Five Percent (225%) of the basic assessment per year per lot. However, the annual increases in the basic assessment for lots held in the Development / Sales Classification shall not exceed Ten Percent (10%). Lots held under this classification shall not be voting lots, nor will they carry the privilege to use the common amenities of ALPOA until the lots have been sold to an individual or firm paying full annual assessments. Individuals or firms holding lots under this classification must evidence active effort to market the lots in order to be entitled to continue to hold lots under this classification. None of the lots in this classification shall be used for personal use. In the event that it is determined that any of these lots are being used for personal use, assessments in the current full amount will become due and owing dating back to the date of the original purchase of the lot(s) unless waived by the Board. In the event that a special assessment is approved by the ALPOA property owners or the ALPOA Board of Directors, the lots held under the Development / Sales classification shall not be subject to said special assessment until the lots are sold to an individual(s) or firm(s) and are no longer classified as Development / Sales lots. Special assessments for lots so sold shall be paid by the purchaser in the following percentages in a manner determined by ALPOA: 1st year following assessment, 100%; 2<sup>nd</sup> year following assessment, 75%; 3rd year following assessment, 50%; 4th year following assessment, 25%; 5th year following assessment, 12.5%; 6th year following assessment, 0%. In order to obtain Development / Sales status for a group of lots the owner(s) must make application to the

ALPOA Board of Directors on the ALPOA form entitled "Request for Development / Sales Status". Approval by the Board will be on a case by case basis; will be based on demonstrated performance as a builder and real estate developer, and will be at the sole discretion of the Board based on the number of Developer/Sales memberships then in existence, the level of sales and building activity and the need for the Association to subsidize investors' carrying costs and other factors considered to be in the best interest of ALPOA. Regular members seeking reclassification as Development / Sale members must be in good standing at the time of application. Assessments will be adjusted on a pro rata basis as of the date of the granting of Development / Sales status.

- 5 . Notwithstanding anything to the contrary in the Article, each owner (legal or equitable), except security holders, of a unit or units in a multi-family dwelling organized as a cooperative or condominium is entitled to apply for membership in the Association; and, upon attaining membership, has the same rights, duties, and privileges (in respect to each cooperative or condominium residential unit owned by him), incident to association membership as a member owning a numbered residential lot, despite the fact that there may be more than one such residential unit situated on the numbered residential lot or lots on which such residential unit or units of his shall be situated.
- 6 . No member may be expelled from membership in the Association for any reason. However, the Board of Directors of the Association may suspend the voting rights (if any), and right to use of the parks, and other recreational facilities of the Association of any member (i) for any period during which any Association charges owed by a member remain unpaid; (ii) during the period of any continuing violation has been declared by the Board of Directors of the Association.
7. There shall be no other preferences, limitations, or restrictions with respect to the relative rights of the members.
8. The members of the Association shall have power to adopt and amend the By-laws of the Association, by a majority vote of all members present at the annual meeting of the Association or any special property owners meeting called, not inconsistent with these Articles or the laws of the State of West Virginia.

## **ARTICLE VI**

### **Board of Directors**

The number of directors of the association shall be as prescribed in the

By-laws, of the Association. The Board of Directors may elect a President, one or two Vice Presidents, a Secretary, one or two Assistant Secretaries, and a Treasurer. The offices of Secretary and Treasurer may be filled by one person. The officers shall have such qualifications, powers and duties, and shall be elected in such manner, at such time and place, and shall serve for such term as may be provided in the By-laws of the Association.

The Association shall indemnify and save harmless all present and former officers and Directors of the Association, as well as its General Manager, agents and employees, of and from all actions, claims, demands, suits or proceedings against any of them arising out of or resulting from the exercise of their duties as such an officer, Director, General Manager, agent, or employees, of the Association except in relation to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. The Association shall also indemnify and reimburse such officer, Director, General Manager, agent or employee all expenses and fees reasonably incurred by any of them in the defense of such action, claim, demand, suit or proceeding.

## **ARTICLE VII Miscellaneous**

- 1 . None of the provisions of these Articles may be altered or amended in whole or in part in such a way as to bring them into conflict with the restrictive covenants and deed restrictions applicable to Alpine Lake. With this exception, these Articles may be freely amended by a majority vote of members present or represented by proxy vote at the annual meeting of the Association or any special meeting called by the Board of Directors.
- 2 . The following provision is hereby adopted for the purpose of defining, limiting and regulating the powers of the Association and of the directors and officers:
3. No contract or other transaction between this Corporation and any other corporation and no act of this Corporation shall in any way be affected or invalidated by the fact that any of the Directors of this Corporation are pecuniarily or otherwise interested in, or are directors or officers of, such other corporation; any directors individually, or any firm of any director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of this Corporation, provided that the fact he or such firm is so interested shall be disclosed or shall have been known to the Board of Directors or a majority thereof; and any director of this Corporation who is also a director or officer of such other corporation or who is so interested may be counted in

determining the existence of a quorum at any meeting of the Board of Directors of this Corporation, which shall authorize any such contract or transaction, with like force and effect as if he were not such director or officer of such corporation or not so interested.

**ARTICLE VIII**  
**Initial Incorporators**

The names and addresses of the initial incorporators are as follow:

<u>Name</u>	<u>Address</u>
J. W. Ruby	454 Grand Street Morgantown, West Virginia
Hazel L. Ruby	454 Grand Street Morgantown, West Virginia
Helen Galik	33 Orchard Avenue Morgantown, West Virginia
Geo. R. Farmer, Jr.	306 Lebanon Avenue Morgantown, West Virginia

**ARTICLE IX**

The existence of this Corporation is to be perpetual.

We, the undersigned, pursuant to West Virginia Code Section 31-1-149, hereby state that the foregoing RESTATED ARTICLES OF INCORPORATION correctly set forth without change, the corresponding provisions of the Articles of Incorporation as theretofore amended, and hereby declare that the foregoing restated Articles of Incorporation, as amended, for Alpine Lake Property Owners Association, Inc., to supercede the original Articles of Incorporation and all amendments thereto.

In Witness Whereof, we have hereunto affixed our signatures this 4th day of November, 1998.

Alpine Lake Property Owners Association, Inc.

By: Wayne A. Nelson  
Wayne Nelson, its President

By: Frank Buczek  
Frank Buczek, its Vice President

By: Ralph Nelson  
Ralph Nelson, its Secretary

By: Willard B. Brown  
Willard Brown, its Treasurer

By: David S. White  
David White, Member, Board of Directors

By: Ceci Brandner  
Ceci Brandner, Member, Board of Directors

By: Richard Roberts  
Richard Roberts, Member, Board of Directors

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Willard Brown, Treasurer of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: 3 MAY 2002.



*Gerald K. Kelley*  
Notary Public

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by David White, Member, Board of Directors of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: 3 MAY 2002.



*Gerald K. Kelley*  
Notary Public

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Cecil Brandner, Member, Board of Directors of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

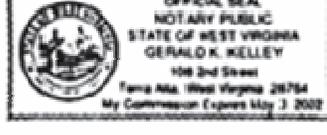
My Commission expires: 3 MAY 2002.



*Gerald K. Kelley*  
Notary Public

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Richard Roberts, Member, Board of Directors of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: 3 MAY 2002.



*Gerald K. Kelley*  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF PRESTON, to-wit:

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Wayne Nelson, President of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: *3 MAY 2002.*



*Gerald K. Kelley*  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF PRESTON, to-wit:

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Frank Buczek, Vice President of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: *3 MAY 2002.*

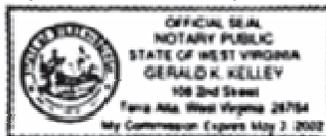


*Gerald K. Kelley*  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF PRESTON, to-wit:

The foregoing instrument was acknowledged before me this 4th day of November, 1998, by Ralph Nelson, Secretary of Alpine Lake Property Owners Association, Inc., a West Virginia Corporation, on behalf of the corporation.

My Commission expires: *3 MAY 2002.*



*Gerald K. Kelley*  
Notary Public

ARTICLES OF INCORPORATION

# State of West Virginia



## Certificate

*I, Her Heckler, Secretary of State of the  
State of West Virginia, hereby certify that*

by the provisions of Chapter 31, Article 1, Section 27 and 28 of the West Virginia Code, the  
Articles of Incorporation of

ALPINE LAKE PROPERTY OWNERS ASSOCIATION, INC.

conform to law and are filed in my office. I therefore declare the organization to be a  
Corporation for the purposes set forth in its Articles, with the right of perpetual existence.

Therefore, I hereby issue this

### CERTIFICATE OF INCORPORATION

to which I have attached a duplicate original of the Articles of Incorporation



*Given under my hand and the  
Great Seal of the State of  
West Virginia on this  
Thirtieth \_\_\_\_\_ day of  
December 19 98*

*Her Heckler*  
Secretary of State

# BYLAWS

## ALPINE LAKE PROPERTY OWNERS ASSOCIATION

### Section 1. DEFINITIONS

For the purpose of these Bylaws — “Articles of Incorporation” means the Articles of Incorporation of the Association as amended. “Association” means the Alpine Lake Property Owners Association, Inc. “Subdivision” Means the subdivision called “Alpine Lake” in Portland District, Preston County, West Virginia.

### Section 2. SEAL

The seal of the Association is a disc inscribed with the name of the Corporation, the year in which it was incorporated, and the words “State of West Virginia”.

### Section 3. FISCALYEAR

The fiscal year of the Association begins on the first day of May each year and ends with the last day of April of the next year.

### Section 4. MEMBERSHIP

- (a) Qualifications: As prescribed in the Articles of Incorporation
- (b) Evidence of membership: The Board of Directors may issue evidence of membership, in a form prescribed by it, to members who are not in arrears in paying their assessments.
- (c) Privileges: In accordance with the restrictive covenants of the Subdivision, the Articles of Incorporation, and any rules prescribed by the Board, the following persons may use the streets in the Subdivision, the areas designated as parks or pedestrian easements on the plats thereof, and any other recreational facilities in the Subdivision that are owned by the Association.
  - (1) Any member or associate member.
  - (2) Any person who belongs to the family of a member or associate member and who has the same residence as that member or associate member.

- (3) Any person who is a guest of a member or associate member.
- (4) Any person authorized by the Board of Directors.
- (5) Notwithstanding any other provision of these Bylaws a person who is not already a member, and who rents a numbered residential lot is not entitled to any of the privileges set forth in this section.

### **Section 5. ANNUAL MEETING**

- (a) The annual meeting of the members for the election of Directors whose terms have expired, and for the transaction of other proper business, shall be held at 10:00 A.M. on the fourth Saturday of June of each year. However, if that day is a legal holiday, the meeting shall be held on the next following day that is not a legal holiday.
- (b) Failure to hold the annual meeting does not forfeit the Articles of Incorporation or cause the Association to dissolve.

### **Section 6. SPECIAL MEETINGS**

A special meeting of the members may be called by a majority vote of the Board of Directors, or by written petition signed by a person who has, or persons who have, the right (under the Articles of Incorporation and these Bylaws) to cast one-half of the votes on any question upon which the vote of the members is required or desirable.

### **Section 7. PLACE OF MEETING**

A meeting of the members shall be held within the boundaries of Alpine Lake and stated in the notice of the meeting.

### **Section 8. NOTICE OF MEETINGS**

- (a) Delivery: At least 30 days before the date of meeting, a written or printed notice stating the place, day, and hour of an annual meeting, and the place, day, hour and purpose of any special meeting, shall be delivered by or at the direction of the Board of Directors, to each person (or group of joint tenants in common) who own a numbered lot in the subdivision.
- (b) Constructive notice: Unless the person concerned notifies the Secretary otherwise in writing, each member is considered to have notice of a meeting if the notice is mailed to the address on the member's membership application or which was supplied to the Association by the member for purposes of notice.

- (c) Waiver of notice: Any member may waive the requirement of notice of a meeting by a written waiver filed with the Secretary before, at, or after the meeting, or by attending the meeting.
- (d) Publication: In place of delivery of notice as prescribed in this section, the Board may publish notice at least once a week for two consecutive calendar weeks in a newspaper published in the county in which the registered office is located, or having a general circulation in that county. The first publication must be not more than fifty days, and the second not less than seven days, before the meeting.

## **Section 9. VOTING AT MEETINGS**

- (a) Rights: As prescribed in the Articles of Incorporation.
- (b) Method: A vote attributable to a numbered lot must be cast as follows:
  - (1) If the lot is owned by one person, that person shall cast the vote.
  - (2) If the lot is owned by joint tenants or tenants in common then the vote attributable to the lot may be cast by one of the tenants, if there is no objection or contrary vote by another tenant. However, if two or more of them want the vote for the lot cast in different ways, or one of them wants the vote not to be cast, then the vote is properly cast if cast by a majority of the tenants.

## **Section 10. ABSENTEE BALLOTS**

Any member who is entitled to vote at any meeting of the members may vote by absentee ballot. The Board of Directors shall give adequate notice to members of their right to so vote before each meeting at which there will be voting. The Board shall also prescribe the dates by which those ballots are to be made available and must be returned by the Wednesday preceding the Annual Meeting.

## **Section 11. QUORUMS**

A quorum at any meeting of members consists of no less than forty Association Members. For the purpose of this section, a person is considered to be present if there in person or by absentee ballot.

## **Section 12. BOARD OF DIRECTORS: ELECTION**

The affairs of the Association are managed by a seven member Board of Directors, each of whom must be a member of the Association in good standing. Each Director serves for a term of three years, but continues to serve until a successor is elected and has qualified. However, the term of any director holding office after the 1990 annual meeting, which term would otherwise expire in October 1991, is hereby extended until the end of the 1992 annual meeting.

## **Section 13. BOARD OF DIRECTORS: REMOVAL OF MEMBER**

A member of the Board of Directors may be removed only as provided by the laws of the State of West Virginia.

## **Section 14. BOARD OF DIRECTORS: VACANCIES**

A vacancy on the Board of Directors is filled by the majority vote of the remaining directors. A director so elected serves the unexpired term of the director replaced.

## **Section 15. BOARD OF DIRECTORS: MEETINGS**

- (a) Annual meeting: The Board of Directors shall hold an annual meeting, immediately after the annual meeting of the members, to organize, elect officers, and conduct any other business.
- (b) Special meetings: The Board of Directors may hold a special meeting at any time called by the President. It shall hold a special meeting on the written request of at least two Directors.
- (c) Notice of meetings: The Secretary shall deliver or mail a written notice or printed notice of each annual or special meeting of the Board to each Director at least three days before the date of the meeting. Any Director may waive notice of the meeting, in writing filed with the Secretary, before, at, or after the meeting, or by attendance.
- (d) Place: Each meeting of the Board shall be held at the place specified in the notice of the meeting, or the waivers of notice of the meeting.
- (e) Quorum: A majority of the Board is a quorum. However, if the meeting is to fill a vacancy on the Board, a majority of the existing Directors is a quorum. The act of a majority of the Board present at a meeting at which a quorum is present constitutes the action of the Board.

## **Section 16. BOARD OF DIRECTORS: POWERS AND DUTIES**

- (a) Powers: The powers and duties of the Board include, but are not limited to—
  - (1) Adopting and publishing rules governing the use of those parts of the Subdivision owned by, or under the control of, the Association.
  - (2) Exercising for the Association all power whose exercise is not reserved to or committed to the members of the Association by the Articles of Incorporation or these Bylaws.
- (b) Duties: The duties of the Board include but are not limited to, the fixing of the annual charge to be made against each member pursuant to the Articles of Incorporation and the restrictive covenants of the Subdivision. The Board shall fix the charges before February of each year.
- (c) Rules: The Board shall adopt rules for using the streets, parks, pedestrian easements and other recreational facilities of the Association in the Subdivision. The rules must include, but not limited to, a schedule of fines for violating the speed limits in the Subdivision.
- (d) Committees: The Board may create such temporary and standing committees as it considers necessary, and shall assign the duties of each committee. The Board shall choose the members of the committees from the members of the Association in good standing.
- (e) Informal action: Any action allowed or required to be taken at a meeting of the Board may be taken without a meeting if the Board members file a written consent with the minutes of the Board.

## **Section 17. OFFICERS**

- (a) Number: The Board of Directors shall elect a Chairman, Vice Chairman, Secretary, and Treasurer. The members of the Board elected to those positions shall act as President, Vice President, Secretary and Treasurer, respectfully, of the Association.
- (b) Election and term: The Board shall elect the officers each year, at the annual meeting of the Board. Each officer holds office until a successor has been elected and qualified, or until death, resignation or removal from office before that election or qualification.
- (c) Removal: The Board may remove any officer at any time, with or without cause, at a special meeting called for considering the removal.

- (d) President: The president is the active executive manager of the operations of the Association, subject to the control of the Board. The President, shall perform the duties incident to that office and such duties as are assigned by the Board.
- (e) Vice President: The Vice President has the powers and shall perform the duties that the Board prescribes or the President delegates. In case of the absence or disability of the President, the Vice President shall act in the President's place.
- (f) Secretary: The Secretary shall—
  - (1) Keep the minutes of the members and the Board.
  - (2) Keep the books in his or her custody.
  - (3) Keep at the registered office of the Association, a complete and accurate list of the names and addresses of the members.
  - (4) Give the notices required by law and these Bylaws.
  - (5) Be custodian of the records (except financial records) of the Association and the Seal of the Association.
  - (6) Affix the Seal of the Association to each document whose execution is to be under Seal.
  - (7) Perform all other duties incident to that office.
  - (8) Perform any duties prescribed by the Board.
- (g) Treasurer: The Treasurer is the financial officer of the Association and shall—
  - (1) Keep complete books showing the complete financial condition of the Association.
  - (2) Keep them in his or her custody.
  - (3) Keep a separate financial account for each member.
  - (4) Have charge and custody of, and be responsible for, all funds of the Association.
  - (5) Deposit all funds of the Association, in the name of the Association, in a depository selected by the Board.
  - (6) Receive and give receipts for all funds due and payable to the association.
  - (7) Disburse the funds of the Association in accordance with the instructions of the Board.
  - (8) Give to the President, on the President's request, an account of the Treasurer's transactions and the financial condition of the Association.
  - (9) Perform all other duties incident to the office.
  - (10) Perform other duties assigned by the Board.

## **Section 18. CORPORATE BOOKS AND RECORDS**

- (a) Except as otherwise provided by the laws of West Virginia or these Bylaws, the books and records of the association may be kept at places selected by the custodian thereof.
- (b) All books and records are open for inspection by any member of the Association, for proper purposes, at any reasonable time.

## **Section 19. ANNUAL BUDGET**

The Board of Directors shall adopt an annual budget before the beginning of each fiscal year. The Board shall make the budget available for examination by the membership before the Board adopts it.

## **Section 20. CONTRACTS AND CHECKS**

- (a) Contracts: Each contract to which the Association by party shall be executed in the name of the Association by the President or a Vice President, and be attested by the Secretary or an Assistant Secretary.
- (b) Checks: Each check in the amount of \$400.00 or more for the payment of money of the Association and each promissory note of the Association, must be signed by the Treasurer and the General Manager. Checks less than \$400.00 may be signed by the General Manager and a staff member approved by the Board of Directors. In the absence of the Treasurer or General Manager, another Board member may sign for either the Treasurer or General Manager. In the absence of both the Treasurer and General Manager, two other Board Members may sign for the Treasurer and General Manager, respectively.
- (c) Loans: The Association may borrow or lend money with the approval of the majority of the Board of Directors.

## **Section 21. AMENDMENTS**

These Bylaws may be amended by the majority vote of the members of the Association present or absentee ballot or attorney at the annual meeting of the Association or any special meeting called, not inconsistent with the Articles of Incorporation or the laws of West Virginia.

A portion of Sections 10 and 20 was inadvertently omitted when the booklet was printed. This corrected copy of the Bylaws of Alpine Lake Property Owners Association, Inc. was printed by the authority of the Board of Directors on March 24, 1990.

Amendments to these Bylaws were made in sections 4, 5, 10 and 12 and were approved by a vote of the majority of the membership at the Annual Meeting of Alpine Lake Property Owners Association, Inc. and were legally effective on Saturday, October 13, 1990.

The Bylaws contained in the complete document were approved by a vote of the majority of the membership at the Annual Meeting of Alpine Lake Property Owners Association, Inc. and were legally effective on Saturday, October 14, 1989.



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