

**AMENDED AND RESTATED RESTRICTIVE COVENANTS
PINNACLE SUBDIVISION, FRANKFORT DISTRICT,
MINERAL COUNTY, WEST VIRGINIA
(September, 2019)**

This amended and restated declaration of easements, protective covenants, and beneficial restrictions for the Pinnacle Subdivision, Frankfort district, Mineral County, West Virginia, shall run with the land and shall apply to all lots in the Pinnacle Subdivision. These restrictive covenants are an amendment and restatement to the Amended Restrictive Covenants dated August 27, 1998, and recorded in the Office of the Clerk of the county Commission of Mineral County, West Virginia, in Deed Book 293, at page 373.

1. No building or structure other than a building used for residence and appropriate out buildings for use in connection therewith, a public utility or a church, school, library, or civic building, shall be built or placed upon the premises, and the premises and the buildings built or placed thereon shall not be at any time used for the purpose of any trade, business or manufacture whatsoever, except that a duly licensed professional occupying a building as his private residence may maintain an office therein and shall provide notice of such action to the property owners association (POA) within thirty (30) days of the establishment of such office. The Grantor may maintain an office on the premises so long as he owns any houses or lots included in the Subdivision. No lot shall be subdivided without the consent of the POA. No double-wide modular or mobile homes are allowed in the Subdivision however prefabricated homes on a permanent foundation are permitted.
2. No multiple family dwelling or dwelling designated for the use of more than one (1) family shall be constructed upon any of the land covered by this Restriction. Not more than one (1) dwelling shall be constructed upon any one (1) lot.
3. No tents, shacks, travel trailers, garages, outbuildings of any type or any structure that is not the primary residence on the lot, shall be occupied as living quarters on any lot in the Subdivision.
4. There will be no sheep, goats, swine, cows, or fowl (except as set forth in the following sentence) kept or maintained upon said land. A person occupying a building as their private residence in the Subdivision may maintain no more than six (6) hens on such lot solely for personal use. Any structure maintained for such hens shall be of quality construction in accordance with paragraph 7 below, except that a solid foundation shall not be required. Hens may be permitted to free-range, in order to help manage the rampant tick population and Lyme's disease. Hen owners are responsible to avoid and immediately resolve any situation in which a hen or hens become a public nuisance. Should hens become in any way injured or killed while on property not belonging to the owner or on common or community property, the owner bares all responsibility, and may not hold any other party liable in any way, for such injury occurring away from the hen owner's property. Other domestic animals or pets may be kept and maintained upon said lands, but shall be kept and maintained within the boundaries of the owners of said lands and in such condition so as not to cause a public nuisance. Incessant and uncontrolled barking shall be deemed to be a public nuisance. Such other domestic animals or pets are permitted to use the common rights of way over the tracts of land of which this is a part when under the control of some person. Should the POA receive complaints that the maintenance of any animal in the Subdivision is creating a public nuisance such lot owner will be promptly notified. Should the lot owner fail within 30 days of such notice to eliminate such public nuisance as to the keeping of hens, the owner will be required to remove

them within 45 days of such notice and cease from maintaining them, and in the case of such other domestic animal the lot owner shall be fined by the POA \$5.00 per day until such nuisance is eliminated.

5. No sign of any kind shall be displayed to the public view on any lot except used by a lot owner, builder or a realtor to advertise the property during the construction and/or sales period. Such restriction shall not prohibit the POA from posting signs on any private road in the Subdivision for the purpose of furthering the safety and well-being of residents of the Subdivision.
6. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other wastes shall not be kept except in sanitary containers and removed every seven (7) days. Trash and refuse shall not be allowed to accumulate on the lands covered by these Restrictions and no junk, junked vehicles, or parts thereof, or vehicles not in current use shall be kept or stored thereon. All vehicles required by State law must display current tags. Of course, a vehicle without current tags, may be kept in any covenant compliant outbuilding or garage, as the display of current tags requirement applies only to vehicles parked outside of such enclosed storage.
7. All conventional buildings and structures erected upon said land shall be upon a solid foundation (poured concrete, concrete block or solid stone), and shall be constructed of good finished materials and constructed in good and workmanship like manner. Tarpaper, rolled siding, plywood, particle board, and concrete are especially agreed not to be considered as finished materials nor any other material which may cause a public nuisance. Every building erected upon said premises and the exteriors of the same, including the roof and the painting of said structure shall be completed within twelve (12) months after the commencement of construction. In Sections, A, B, and C, no residence shall contain less than 1,200 square feet of living space. All of the above shall be strictly enforced unless waived in writing by the POA.
8. The lots shall be used for the residential and the other purposes above enumerated, and shall not be used in such a way as to create any public nuisance. That failure to complete a residence within twelve (12) months from the commencement of the erection thereof (unless a written waiver has been obtained from the POA as set forth in paragraph 13) and the failure to maintain any vacant lot in such a condition as will not detract from the surrounding area shall be deemed to be and create a public nuisance. All lots shall be left in their nature state, except as pertains to open meadow areas which are required to be bush hogged or mowed not less frequently than once annually, which for fire prevention/control purposes, will be completed within the time period of July through September.
9. No lot shall be excavated except for the purposes of laying foundations for buildings to be erected thereon, managing water runoff or placing said lot on grade.
10. No wooded lot may be clear-cut; however, up to one (1) acre may be cleared for placement of house, garage, driveway, garden and other domestic and residential purposes.
11. No lot owner shall relocate and/or divert any stream bed nor construct any stream crossing without approval of the appropriate governmental body exercising jurisdiction over such matters, and the Grantors herein. No driveway may be constructed on any lot without installation of appropriate and required culverts. Repair of roadway damage caused by failure to do so shall be the responsibility of the owner of the lot causing damage. If

any lot owner takes, or fails to take, such action that requires repair of such roadway drainage, and within thirty (30) days of receipt of notice from the POA of the need for such repairs, fails to do so, the POA is authorized to and shall place a lien on the property for the cost of the work undertaken by the POA on behalf of the lot owner.

12. No fence, wall or hedge shall be placed or permitted to remain on any lot on the street line on which said lot fronts to the limits of the front set back line.
13. No trees or shrubs may be planted or allowed to grow that would obscure the view of another lot owner. Also, no fuel containers such as propane, oil or water tanks shall be in plain view and must be concealed by shrubs, decorative fencing or barriers.
14. No individual sewage disposal system shall be permitted on any lot unless such system is approved and constructed in accordance with the regulations of the West Virginia State Health Department.
15. An easement ten feet (10') wide and over and along the side lines and fifteen feet (15') over and along the rear of each lot of said Subdivision, and twenty-five feet (25') wide over the lots along the front line and the outer boundary lines of said Subdivision is hereby reserved unto the Grantor, its successors and assigns, for the construction, maintenance and operation of utility services and facilities to said lots. However, if two contiguous lots are in single ownership, the sideline restrictions and this sideline easement reservation shall not apply to the common interior lot line, unless shown on a plat as reserved for specific use. The utilities in Section A, B and C should be underground if terrain and ground conditions (rock) permit. Should over-head service be desired, written permission must be obtained from the POA.
16. The roads and rights of way constructed and to be constructed by the Grantors shall be for the use and benefit of all owners of the property whose source of title is derived from the Grantors. The owners of various parcels of land in the Subdivision shall organize a POA in accordance with Chapter 36B of the West Virginia State Code, which shall thence forth be responsible for the maintenance of said roads and rights of way and the roads and rights of way shall be kept in good condition for the use and convenience of all such owners. Each lot owner shall pay an annual fee to the POA for road maintenance for each lot owned which shall be \$99.00 per lot per annum for all lots accessed from Waxler Road and \$200.00 per lot per annum for all lots accessed from private roads in the Subdivision (the "Annual POA Fee"). Any increase shall be based upon the cost of living index increase over base year 2019, and/or POA approved capital improvements. Should such lot owner fail, within three (3) months of receipt of notice to make payment of the Annual POA Fee, the POA is authorized to and shall have the right to place a lien against the property for the cost of any unpaid Annual POA Fee and record such lien in the Office of the County Commission of Mineral County.

Any damage to private roads in the Subdivision as a result of any construction or leasehold improvements are the responsibility of the lot owner who contracted for such work. Should any lot owner fail, within three (3) months of notice from the POA, to remedy any road damage, the POA is authorized to and shall have the right to place a lien against the property for the cost of any work done by the POA on behalf of the lot owner to remedy such damage and record such lien in the Office of the County Commission of Mineral County.

17. It is the intention of the Grantor, its successors and assigns, to dedicate from time to time for public use any such streets, roads, or highways and to transfer and convey their title in and to said lands to the political subdivision exercising jurisdiction over such public ways, streets, roads, and highways in said Subdivision.

18. Any residence constructed in the Pinnacle shall be required to tap into the central water system. No charge for water usage will be assessed until such time as the buyer has actually tapped onto the central water system. At such time, the lot owner agrees to pay the tap-on fee plus water usage fees approved by the West Virginia Public Service Commission or the POA.
19. The word lot or lots wherever used herein refers to the lot or lots laid out in the aforesaid Subdivision, and the Subdivision wherever used herein refers to said Subdivision.
20. The covenants, restrictions, reservations and limitations above set forth (other than the utility easements reserved in paragraph 15 hereof which shall continue until terminated by and at the pleasure of the Grantor, its successors and assigns) shall run with and bind the land included in the tract hereby conveyed, and shall inure to the benefit of and be enforceable by and binding upon the parties hereto and all persons claiming under them. Failure by the POA to enforce any covenant, restriction, reservation or limitation herein contained shall in no event be deemed a waiver of the right to do so thereafter for the same breach or as to one occurring prior thereto. If any party owning property in the Subdivision or his heirs or assigns, shall violate or attempt to violate any of the covenants herein, any other person or persons owning any real property or any interest therein in the subdivision may take such legal action against the person or persons violating or attempting to violate any such covenants as may be necessary to prevent him or them from doing so or to obtain redress for such violation.

The Board of Directors shall have the right to levy reasonable fines for violations of the restrictive covenants, bylaws, and any rules and regulations of the association. However, fines may be levied by the Board of Directors only after an owner is given notice, in writing, that the Board has found there is reason to believe the owner has violated the restrictive covenants, bylaws, or any rules and regulations of the association, and gives the owner notice of the date, time and place the owner will be given an opportunity to appear before the Board and explain why he or she feels a fine should not be levied. Notice shall be given by mailing a copy of the Board's findings and a notice of hearing to the owner's last known address according to the POA's records. Service of the notice is deemed complete upon placing the notice in the U.S. Postal Service, postage prepaid. Should the owner fail to appear, or should the Board find, after hearing from the owner, that the fine should be imposed, then the Board shall impose a reasonable fine.

Should the owner fail to pay such fine to the POA within thirty (30) days of receipt of such notice the POA is authorized to and shall place a lien against the property which shall remain in effect until receipt of payment of any such fine and record such lien in the Office of the County Commission of Mineral County.

21. Invalidity of any of these covenants shall in no way affect any of the other provisions which shall remain in full force and effect.
22. These covenants and restrictions may be modified, amended, or changed if approval by vote of two-thirds of the owners of lots in The Pinnacle, whereby each owner shall be entitled to one (1) vote for each lot owned, and upon proper recordation of such change in the Office of the Clerk of the County Commission of Mineral County, West Virginia.

In making these amendments to the Restrictive Covenants, the undersigned hereby certify the following:

- 1) The members of the Pinnacle Property Owners Association have acted in accordance with the Restrictive Covenants already on record in the Office of the Clerk of the County Commission of Mineral County.
- 2) Greater than two-thirds of the of owners in the Pinnacle Subdivision approved these amendments to the Restrictive Covenants by written ballot after receiving proper notice.
- 3) The procedures used to conduct the voting to amend the Restrictive Covenants was performed in accordance with the existing By-Laws of the Pinnacle Property Owners Association, Inc. and all applicable West Virginia law.


Eric Lynam, President of the Pinnacle Property Owners Association, Inc.

ATTEST:

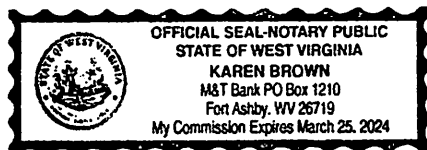

Frederick Welch, Secretary
Pinnacle Property Owners Association, Inc.

STATE OF WEST VIRGINIA

COUNTY OF MINERAL, to-wit:

The foregoing instrument was acknowledged before me on the 10th day of February, 2020, by Eric Lynam, President, Pinnacle Property Owners Association, Inc., and was attested by Rick Welch, Secretary, Pinnacle Property Owners Association, Inc.

My commission expires: March 25, 2024



Notary Public: 