

20618

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

DAN RYAN BUILDERS, INC.'S PRENTISS POINT SINGLE FAMILY HOMES
SUBDIVISION

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made and executed this 24th day of May, 2006, by DAN RYAN BUILDERS, INC., a Maryland corporation, hereinafter referred to as "Developer" or "Declarant".

WITNESSETH:

WHEREAS, Developer is the owner of certain real estate located in Martinsburg District, Berkeley County, West Virginia consisting of 63.6564 acres, 9.3012 acres and 1.9507 acres, and more particularly described in that deed dated October 27, 2004, of record in the office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 780, at page 218, and

WHEREAS, the Developer desires to create within said parcel of real estate a subdivision known as the DAN RYAN BUILDERS, INC.'S PRENTISS POINT SINGLE FAMILY HOMES SUBDIVISION; and

WHEREAS, the Developer desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said subdivision and for the maintenance of the properties and improvements thereon, and to this end desires to subject the hereinafter described real estate, being part of the land above referred to, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the values and amenities in said subdivision, to create an agency to which should be delegated and assigned the powers of owning, maintaining, and administering the community properties and facilities and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the said property owners.

WHEREAS, the Declarant or its Assignee shall organize under the laws of the State of West Virginia, as a non-profit Corporation, THE DAN RYAN BUILDERS, INC.'S PRENTISS

POINT SINGLE FAMILY HOMES HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid, the authority to organize said original homeowners association corporation being hereby specifically reserved to the Declarant or its Assignee:

WITNESSETH:

The Developer declares that the hereinafter described real estate, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

1. "Declaration" shall mean the covenants, conditions, and restrictions and all other provisions herein set forth in this entire document, as may from time to time be amended.
2. "Association" and "Homeowners Association" shall mean and refer to THE DAN RYAN BUILDERS, INC.'S PRENTISS POINT SINGLE FAMILY HOMES HOMEOWNERS ASSOCIATION, INC., a West Virginia corporation, its successors and assigns.
3. "Developer" or "Declarant" shall mean and refer to DAN RYAN BUILDERS, INC., a Maryland corporation, or its Assignee as provided by Article XI Section 5 herein.
4. "The Properties" shall mean and refer to all real property subject to the Declaration as set forth in Article II Section I herein, and all real property as may from time to time be annexed thereto under the provisions of Article II hereof.
5. "Common Properties" and "Common Facilities" and "Common Areas" are interchangeable terms and shall mean and refer to those areas of land shown on any recorded subdivision plat of the properties and improvements thereto, which are devoted to the common use and enjoyment of the members, and includes, but is not limited to, streets, roadways, park and picnic areas, ponds, and street lights.
6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the "Common Properties" as heretofore defined, and with the exception of any streets or roadways shown on any recorded subdivision map on the properties.

7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot, but excluding those having such interest merely as security for the performance of any obligation.

8. "Supplementary Declaration" shall mean any declaration of covenants, conditions and restrictions which may be recorded by the Developer or its Assignee, which extends the provisions of the Declaration to a parcel of real estate and contains such complementary provisions for such parcels as are herein required by this Declaration.

ARTICLE II

PROPERTIES SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real estate which has and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Martinsburg District, Berkeley County, West Virginia and more particularly described as Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision, Phase IV, Sections 1 and 2, according to plats dated August 2005, prepared by Dewberry & Davis, LLC, recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia in Plat Cabinet 12, at Slides 29-35.

Section 2. Additions to Existing Property. Additional properties may become subject to this Declaration in the following manner: Developer, its successors and assigns, shall have the unilateral right to bring within the scheme of this Declaration additional properties in future stages of development which may or may not be a portion of those lands as were conveyed to Developer, by deed dated the 27th day of October, 2004, of record in the aforesaid Clerk's Office, in Deed Book 780, at page 218. Nothing herein shall mean the Developer must develop any additional properties other than Phase IV, Sections 1 and 2 of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision and no other lands owned by the Developer shall be deemed subject to this Declaration until and unless such lands are brought within the scheme of this Declaration pursuant to the terms hereof. UNLESS AND UNTIL SPECIFICALLY MADE SUBJECT THERETO, NO PROPERTY OTHER THAN THAT DESCRIBED ABOVE SHALL BE DEEMED SUBJECT TO THIS DECLARATION, IT BEING EXPRESSLY UNDERSTOOD, COVENANTED AND AGREED THAT THE REMAINING PROPERTIES SHOWN AND SET FORTH IN THAT CERTAIN ABOVE DESCRIBED DEED, RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED

BOOK 780, AT PAGE 218, AND ANY OTHER LANDS OWNED BY DECLARANT IN THE AREA SHALL NOT BE SUBJECT TO THIS DECLARATION OF RESTRICTIONS, ASSESSMENTS, COVENANTS AND CONDITIONS HEREIN CONTAINED, UNLESS AND UNTIL SPECIFICALLY MADE SUBJECT THERETO AS HEREINAFTER PROVIDED IN ARTICLE II HEREOF. THE DECLARANT MAY, FROM TIME TO TIME, AS HEREINAFTER SET FORTH, SUBJECT ADDITIONAL REAL PROPERTY TO THE CONDITIONS, RESTRICTIONS, COVENANTS, RESERVATIONS, LIENS, ASSESSMENTS, AND CHARGES HEREIN SET FORTH BY APPROPRIATE REFERENCES HERETO. THE DECLARANT MAY, SUBJECT TO APPROVAL OF THE CITY OF MARTINSBURG, WEST VIRGINIA, PLANNING COMMISSION, AMEND THE LAND USE RESTRICTIONS TO PROVIDE FOR REDUCED SETBACKS, SMALLER BUILDING LOT SIZES AND OTHER SIMILAR AMENDMENTS FOR SMALLER BUILDING LOTS. The additions authorized hereunder shall be made by the filing of record of one or more Supplementary Declarations of Covenants and Restrictions with respect to the additional property and by filing with the Association a general plat of development for the proposed additions. Unless otherwise stated therein, such general plans shall not bind the Developer to make the proposed addition.

Section 3. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration with the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the property subject to this Declaration except as hereinafter provided.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject to the covenants of record and to assessments by THE DAN RYAN BUILDERS, INC.'S PRENTISS POINT SINGLE FAMILY HOMES HOMEOWNERS ASSOCIATION, INC., shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 2. Voting Rights. The Association shall have two classes of voting memberships:

Class A. Class A members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote of each Lot shall be exercised as all of the owners of said Lot shall among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B member shall be the Developer, who shall be entitled to Five (5) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership. For the purposes of this subsection, the Declarant (Developer) shall be entitled to Five (5) votes for each lot owned, including all Lots 1-3, 112-127, 135-140 and 154-158, of Phase IV, Section 1, and Lots 81-111 and 153, of Phase IV, Section 2 of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision as well as Five (5) votes for each lot owned in any additional properties which shall, pursuant to this Declaration, be made subject to the terms and provisions of this Declaration.

(b) On January 1, 2020.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every lot.

Section 2. Title to Common Properties. The Developer or its assignee or grantee shall retain the legal title to the roads and other Common Facilities during development; after construction is complete, however, the Developer or its assignee or grantee shall from time to time convey the legal title to some or all of these areas to the Association, provided however, that the streets and roads may be dedicated to the City of Martinsburg. The roads, unless dedicated to the City of Martinsburg, and other Common Facilities are dedicated to the use of the Association, and shall be maintained by the Association upon the completion of roads and other Common Facilities constructed in the properties. The Developer or its assignee or grantee shall complete the construction of the roads and other Common Facilities prior to conveying legal title to the roads and Common Facilities to the Association or City of Martinsburg. All members of the Association shall have the right to the use of the roads and Common Facilities within the 11.164 acre and 16.830 acre parcels of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision as shown on the plat of record in the Berkeley County, West Virginia, County Clerk's office in Plat Cabinet 12, at Slides 29-35.

Section 3. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the right of the Association to dedicate or transfer all or any part of, or any interest in, the roads and other Common Facilities to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, or determination as to the purposes for or as to the conditions thereto, shall be effective unless an instrument agreeing to such dedication, transfer, purpose or conditions, signed by members entitled to cast two-thirds (2/3) of the votes of each class of membership, has been recorded, and unless written notice of the proposed agreement and action thereunder is sent to every member at least fifteen (15) days in advance of any action taken.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Annual Assessment. The Developer hereby covenants, and each owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the Association may assess initially, for each lot THREE HUNDRED DOLLARS (\$300.00) per year, for the use, upkeep and maintenance of common areas, right-of-ways and all roads and walking paths in all sections of the said subdivision and

such other Common Facilities as the said Developer may provide therein, subject to any increase provided hereafter. The assessment herein set forth is established subject to the exempt properties exception set forth in Section 7 of this Article.

Section 2. Creation of Lien. Any assessment made pursuant to this article, including late fee of Twenty-Five Dollars (\$25.00) and interest at the rate of ten percent (10%) per annum from the date of the delinquency and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on the property until paid and all owners do bind themselves, their heirs and successors in title, to this lien and the covenants herein. This lien is expressly inferior and subordinate to any mortgage or deed of trust encumbering the property affected by these covenants. In the event of a resale of one or more lots in the subdivision, the obligations shall become the obligation of the new owner.

Section 3. Rights, Obligations and Responsibilities of the Association. The Association shall have the right, obligation and responsibility for the collection of the moneys due under the lien assessment and for the maintenance and costs of maintenance of the streets, rights-of-ways, ponds, lakes, street lights, amenities and Common Properties within the subdivision, and the costs of the insurance premiums to provide property, general liability, and directors and officers liability insurance coverage of at least \$1,000,000.00 in regard to said items. The amount of such assessment shall be charged or assessed in equal proportions against each Lot subject to this Declaration.

Section 4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of all of residents in The Properties and in particular for the improvement and maintenance of roads, right-of-ways, properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes situate upon The Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the costs of labor, equipment, materials, management and supervision thereof.

Section 5. Establishment of Annual Assessment Rate. The Board of Directors of the Association may, after consideration of current maintenance costs, and future needs of the Association, fix the annual assessment in an amount below the original amount set forth in Section 1 hereof. The Board of Directors of the Association shall not increase the amount of the

annual assessment more than ten percent (10%) per year without the written affirmative vote of two-thirds (2/3) of the members of the Association entitled to vote. No property owner who is in default of the payment of the annual assessment lien as of the first day of January of any year shall be entitled to vote. Until the year beginning January 1, 2006, the annual assessment shall be THREE HUNDRED DOLLARS (\$300.00) per Lot. From and after January 1, 2006, the annual assessment may be increased by a vote of the Board of Directors of the Association. The Board shall at least annually review current maintenance costs, and replacement costs including a reasonable depreciation reserve and insurance costs, including property, general liability and directors and officers liability, and the future needs of the Association and based on said review may increase or decrease the assessments. PROVIDED, HOWEVER, that the annual average common expense liability of each Lot, inclusive of special assessments, and exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed \$300.00 as adjusted pursuant to Section 114, of Article 1 of Chapter 36B of the West Virginia Code, to-wit: Adjustment of dollar amounts under the West Virginia Uniform Common Interest Ownership Act. The Homeowners Association shall be operated as a non-profit organization.

Section 6. Date of Commencement Assessment; Due Date. The annual assessment as to any Lot shall commence on the conveyance of such Lot, prorated for the remaining portion of said year, provided such conveyance is after January 1, 2006. The annual assessment is due and payable on the first day of January of each year beginning January 1, 2006, and shall be considered delinquent if not paid by April 1, of each year. The contractor-builder constructing a home on any lot shall not be required to pay the annual assessment unless the contractor/builder becomes the owner occupant, in which case the annual assessment shall be payable in like manner as any other owner occupied Lot.

Section 7. Exempt Property. The following property subject to this Declaration shall be exempted from the annual assessment charges, and lien created herein:

CLASS "A" EXEMPT PROPERTIES:

- (a) All properties to the extent of any easement or other interest therein dedicated and excepted by the local public authority and devoted to public use;
- (b) All Common Areas, as defined in Article I hereof;
- (c) All properties exempted from taxation by the laws of the State of West Virginia, upon the terms and to the extent of such legal exemption, provided, however, that property

exempted from taxation by reason of the Homestead Exemption or because of a charitable designation or status, shall not be exempt from the assessments, charges, and lien created herein.

CLASS "B" EXEMPT PROPERTIES

(a) All unimproved Lots owned by the Developer within the area covered by this Declaration; provided that the Class "B" Exemption shall cease as to any individual Lot or Lots owned by the Developer upon the date that the Developer shall remove any such Lot or Lots from its inventory of sales Lots, and converts the same to purposes other than a Lot for sale, exclusive of and not including the execution of a sales contract by the Developer on said Lot or Lots for a proposed sale of said Lot or Lots, and shall cease and terminate as to all the remaining Lots owned by the Developer in a particular Section upon the happening of any one (1) of the following events, which occurs earlier:

1. On January 1, 2020; or
2. The date upon which the Developer transfers legal title to the roads in a particular Section to the Association, the Developer's exemption as to all Lots owned by the Developer in that particular Section shall cease and terminate.

(i.e., If the Developer has made an addition to The Properties known as Section "IV", and the Developer dedicates the roads in Section "T" to the Association, the Developer will lose its exemption as to all the Lots it then owned in Section "T", but would retain its exemption as to all Lots in Section "IV" until such time as either of the above-enumerated events occur.)

(b) As the Developer is to be exempted from assessments as hereinbefore provided for, the Developer does hereby covenant and agree that until such time as its exemption terminates as to a particular Section of The Properties, as hereinbefore provided for, the Developer shall be and remain responsible for the reasonable maintenance, operation, and upkeep of the Common Properties and Roads (not including major capital improvements or expenditures) in each particular Section for which the Developer retains its exemption upon, and subject to, the proviso that such funds and assessments as are collected by the Association while the Developer is responsible for said maintenance and upkeep shall be used and provided to the Developer to aid and defray the Developer's costs in maintaining and upkeeping said Common Properties. From and after the termination of the Developer's exemption as to the Lots in a particular Section of The Properties, the Developer shall have no responsibility for the

maintenance and upkeep of the Common Properties in that particular Section of The Properties where the Developer's exemption has terminated, except as a member of the Association.

Section 8. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Sections 1 and 5 hereof, the Association may levy in any assessment year a special assessment, applicable to not more than 8 years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement including the necessary fixtures and personal property related thereto; PROVIDED THAT any such assessment shall have the assent of 60% of the Association Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting; AND FURTHER, PROVIDED, that the annual average common expense liability of each lot, inclusive of special assessments and exclusive of optional user fees and any insurance premiums paid by the Association shall not exceed \$300.00 as adjusted pursuant to Section 114, of Article 1 of Chapter 36B of the West Virginia Code, to-wit: Adjustment of dollar amounts under the West Virginia Uniform Common Interest Ownership Act. . The quorum required for any such action shall at the first meeting be the presence at the meeting of Members or of proxies entitled to cast sixty (60%) percent of the votes of the membership of the Association, and at any subsequent meeting called due to a lack of a quorum at the first meeting, the quorum required for any such action shall be one-half of the required quorum at the first meeting. This Special Assessments for Capital Improvements Section is established subject to the exempt properties exception set forth in Section 7 of this Article.

ARTICLE VI

NOTICE OF MEETINGS

CONSTITUTION OF A QUORUM

Section 1. Notices. Written notice of any meeting of the Association shall be sent to all members at least Fifteen (15) days in advance and shall set forth the purpose of the meeting.

Section 2. Quorum. For any action authorized under Article IV and Article V hereof the quorum shall be at the first meeting called the presence at the meeting of Members or of proxies, entitled to cast sixty per cent (60%) of all votes of each class of membership. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to

the notice requirement set forth in Section 1. above, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE VII

REVISIONS

Developer, its successors and assigns, reserves the unilateral right to modify the plans of any plat of lots within the subdivision, to change the size and shape of blocks, sections and lots and the direction and location of streets, easements and rights-of-way as shown thereon or to annul the same, provided that no change shall be made which shall alter the shape or size of any lot which has been sold or the direction or location of any street, easement or right-of-way upon which it abuts so as to cut off such lot from convenient access to public highways, without the consent of the owner thereof, or which conflicts with any statute or county ordinance.

ARTICLE VIII

RESTRICTIONS AND PROTECTIVE COVENANTS

Section 1. Residential Use. Except as hereafter specifically provided, all Lots subject to this Declaration shall be known and designated as single-family residential lots and shall not be used except for residential purposes. After sale and transfer of a Lot by the Developer to another party, said Lot sold or transferred may not be further subdivided, except as provided in Article VII herein or for the purpose of making a nominal boundary line adjustment.

Section 2. Restriction Against Business Use.

(a) No commercial or business building shall be established upon or permitted upon any Lot and no commercial or business activity shall be established upon or permitted upon any Lot.

(b) Neither this restriction nor any other restriction contained in this Declaration shall be construed to prohibit the Developer or any other owner or builder, for either use as their personal residence or for purposes of profit and sale, from erecting, constructing, and building any structure permitted by these Restrictions, on any Lot in the subdivision, nor prohibit the Developer from erecting, constructing, or building any streets or other Common Facilities. In addition, the Developer specifically reserves the right to and shall be permitted to operate a

subdivision development and sales office out of a model home or homes which may be located on any Lot or Lots within the subdivision.

Section 3. Restrictions as to Types of Construction, Prohibiting Mobile Homes and Modular Homes. No trailer, mobile home, double wide or similar type structure, which moves to a building site on wheels attached to its own carriage, tent, shack, garage, barn or other type of outbuildings shall at any time be used as a residence temporarily or permanently, and no trailer, mobile home, double wide, tent, shack, garage, or barn, shall be utilized as a main or single family dwelling unit on any Lot. No modular or sectional home shall be erected in the subdivision as a main dwelling. Modular homes prohibited are defined, by way of illustration and not limitation, as a dwelling structure constructed with one or more modules and hauled to the site as component parts of a proposed dwelling structure. Prefabricated parts of housing units and custom buildings shall be the only type construction that will be approved in the area. No block or other foundation shall be visible above ground level unless the block is painted masonry or unless the foundation is made of brick or brick design. Cinder blocks, concrete block, solid concrete or asbestos shingles shall not be used as an exterior surface or facing on any building.

Section 4. Approval of Plans and Specifications Required. No building, house, garage, fence, hedge, wall, sidewalk, deck, mailbox, mailbox post or support or driveway, shall be commenced, erected, grown or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, design, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer, or Board of Directors of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed, as hereinafter set forth. In the event the Developer, Association, or the Architectural Review Committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Any such work whether approved by the Developer, Association or Architectural Review Committee or not shall be performed by a licensed contractor. Members of the Architectural Control Committee shall be appointed by the Board of Directors for one year terms and shall be persons who are either

Lot owners in Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision or members of the Board of Directors.

For purposes of this Section the Developer shall have the sole, unilateral, right to approve or disapprove any and all plans and specifications for improvements (including but not limited to all matters set forth in the preceding paragraph) to be erected or maintained in a particular section of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision until such time as the Developer has conveyed by deed all of the Lots in the particular section of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision, or until the Common Areas of the particular section of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision have been conveyed to the Association, whichever should first occur. Thereafter, insofar as the particular section of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision is concerned, the Association or its designated Architectural Review Committee shall have the right to approve or disapprove of the plans and specifications for improvements to be erected or maintained in that particular section of the Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision.

Section 5. Setback Restrictions. Unless and except as otherwise shown and permitted on the recorded plat or plats of The Properties, no building or any part thereof shall be erected on any Lot nearer to the front Lot line than Twenty-five (25) feet or closer to any side Lot line than ten (10) feet or nearer to any rear Lot line than Twenty (20) feet, unless otherwise noted on the plat. A side Lot line setback shall not apply to a property line between Lots in a single ownership. The front Lot line is defined for purposes of this Section as the Lot line facing the front of the home built on the Lot. The setback lines shown on the recorded plats of The Properties shall take precedence over the setback lines set forth in this paragraph.

Section 6. Construction and Paving. Construction of a residence to be built on any Lot must be commenced within one-hundred eighty (180) days of the sale of said Lot by Developer. Any residence erected upon any Lot must be completed within one (1) year from the date that excavation of the Lot is commenced. All driveways shall be concreted or blacktopped prior to occupation of the residence built on the Lot or as soon after occupation as weather permits, and all driveways and other improvements shall be constructed and maintained so that water and debris will not flow or be thrown onto the roadway, and each Lot owner shall

construct a culvert where required or necessary to so restrict and control the flow of water and debris.

Section 7. Exterior Maintenance.

(a) In addition to maintenance upon the Common Properties, the Association may provide exterior maintenance upon each Lot and any home, residence or other improvements erected thereon which is subject to assessment, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grounds, grass, walks, and other exterior improvements, including but not limited to sewage treatment system; provided, however the Association shall not provide any exterior maintenance upon any Lot, home, residence or other improvements erected on any Lot without first giving Lot owner thirty (30) days written notice of the Association's determination that said Lot owner's Lot, home, residence or other improvements are in need of exterior maintenance and the particulars thereof and if said Lot owner does not provide the necessary exterior maintenance within thirty (30) days of the date of notice, that it is the Association's intention to provide the necessary exterior maintenance and to assess the costs thereof to the respective Lot owner.

(b) Penalty and collection of assessment shall be as stated under Article V hereof.

Section 8. Easements and Utilities. In order to permit the practical and economical installation of utilities and amenities, easements for installation and maintenance of utilities over or under a strip of land ten (10) feet wide at any point along the front, rear, or side lines (provided there shall be no easement along any side Lot line between Lots in a single ownership) of all of the Lots in the subdivision are reserved unto the Developer, its successors and assigns, including the Homeowners Association, together with the right of ingress and egress for the purpose of erecting and maintaining said utilities and amenities. In addition, easements for the installation and maintenance of said utilities and amenities are reserved as shown on the recorded plat of the Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision and any Section thereof. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities and amenities. The easement area of each Lot and all improvements in it, except as hereinafter provided, shall be maintained continuously by the owner of the Lot, except for those

improvements for which a public authority, utility company, or the Homeowners Association is responsible. The term utilities as used herein includes, but is not limited to telephone, electrical power and cable television lines, pipes, wires, poles, conduits, pedestals, transformers, and equipment, and sewer, gas, water lines, drainage ditches, and all types of utility structures.

(a) The Association shall be responsible for the integrity of the drainage easements, that is, that the easements remain unobstructed and that the area of land within any drainage easement be and remain unobstructed by any structure or improvement. Individual lot owners shall be responsible for the maintenance, including mowing, weeding and general upkeep of the drainage easement areas that may lie within their lot boundaries, and for the maintenance of any strips of land which lie between each owner's front lot line and the paved surface. In regard to electrical power, cable and telephone utility lines which have been installed prior to sale of any Lot and which may exceed or lay outside of the ten (10) foot utility easement hereinbefore reserved, insofar as said utility lines on said Lots exceed said ten (10) foot easements on said Lots, a right-of-way is hereby reserved for such previously installed electrical power, cable, and telephone lines at, upon, under, on and across said Lots as said power, cable, and telephone lines now lie. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may interfere with such drainage and the area shall be kept as lawn only.

(b) All utilities, utility lines, utility pipes, including but not limited to electrical, gas, telephone and television service, water and sewer service, shall be placed underground, and no poles, pipes, or above ground wires or lines shall be permitted. Radio or television, aerial, antennae, tower or transmitting or receiving aerial, satellite dish, antenna, tower or support thereof may be permitted or placed upon any Lot as long as they are not visible from the subdivision streets. The Developer shall have the right, but without the obligation, to erect an aerial or other apparatus for a master antennae or cable system for the benefit of all or a portion of the Lots. Such system may be provided by the Developer through an independent vendor.

Section 9. Sale and Use of Property Restricted. No part of the real estate within The Properties may be sold or used as a right-of-way to any property outside of The Properties, with the sole exception that the Developer may use or sell any portion of the real estate within The Properties as a right-of-way to any property outside of The Properties. This right of the

Developer, and any rights established thereunder, may be sold or assigned by the Developer, in whole or in part at the Developer's unilateral option, to any person or party.

Section 10. Signs and Advertising Regulated. No signs, billboards, or advertising of any nature shall be erected, placed or maintained on the Lots, nor upon any building erected thereon, except address identification signs, street signs and normal and reasonable "For Sale" signs, and except for any signs to be erected by Developer or its assigns identifying the name of the development, and except for any temporary signs erected with permission of the Developer identifying any lending institution involved with financing the construction of the Dan Ryan Builders, Inc.'s Prentiss Point Subdivision development.

Section 11. Sanitation and Water Service. All Lots shall be serviced by public water and sewer systems and service, and all Lots shall hook up to said services no later than the occupation of the home constructed on each Lot. All such water and sewer systems shall be approved by the West Virginia Health Department or such other regulatory agency as shall have jurisdiction over such matters.

Section 12. Nuisances. It shall be the responsibility of each owner to prevent the development of any unclean, unsightly, or unkept conditions of buildings or grounds upon a Lot which shall tend to substantially decrease the beauty of The Properties as a whole, or the beauty of the specific area.

(a) No noxious or offensive activity shall be permitted upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to The Properties and/or Owners. There shall not be maintained upon any Lot any plant, animal, device or thing of any sort, the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of The Properties. Specifically included under this Section is the prohibition against any livestock, swine, or poultry being kept on any Lot or within the improvements located on any Lot. The keeping of any nondomestic animals shall be deemed a nuisance per se under this Section; but the keeping of domestic cats and dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly, or unpleasant, shall not be prohibited under this Section. The keeping, breeding or caring for profit or remuneration of any animals, including domestic animals, including dogs, cats, or other traditional household pets, or the

maintaining of a kennel, shall be considered a commercial use of the Lot and is prohibited under this Section. No outside animal pens, runs, or yards shall be permitted on any Lot.

(b) No junk motor vehicles nor unregistered motor vehicles nor inoperative motor vehicles shall be permitted on any of the Lots or streets adjacent to any of the Lots within the subdivision.

(c) No dump trucks, commercial road trucks, tractors, or rigs normally used for pulling of hauling trailers, box-trailers, tank trailers, low-boys, flat beds, or other similar vehicles, heavy trucks, truck-type tractors, or other similar vehicles with or without trailers, box trailers, tank trailers, low-boys, flat beds, or other similar vehicles, no matter how propelled, or any pick-up trucks, van truck or similar vehicles having a carrying capacity in excess of one (1) ton, or any construction machinery, boats or boat trailers, portable on demand storage (PODS) units or similar structures shall be placed, parked, stored, or permitted to remain upon any Lot or street in The Properties, except for temporary use during construction or repair of any residence or appurtenant structures, streets, utilities, or other common amenities or while actually being used in such construction or repair or for such temporary uses as moving or making deliveries.

(d) No motor homes, travel trailers, campers or trailers of any type shall be kept or parked on any Lot except and unless stored and parked in an enclosed garage with walls and/or doors on all four sides of said enclosed garage.

(e) Vehicles permitted within the subdivision shall either be traveling on the subdivision streets or roadways or parked on the paved driveway or in the garage of a Lot improved by a residence or in designated parking spaces. No vehicles shall be parked along or upon the streets or roadways of the subdivision or in the yard or any unpaved area of any Lot. This provision shall not apply to Lots while homes are in the process of construction on said Lots and not yet occupied.

(f) Each Owner shall keep their Lot and improvements thereon in a safe, clean, neat, and well maintained condition, and shall comply with all applicable safety, health, police and fire department requirements. Each Owner shall further keep all Lots, and all improvements therein or thereon, in good order and repair, including but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting or other appropriate external care of all buildings and other improvements, all in

a manner and with such frequency as is consistent with good property management as determined by Declarant, its successors or assigns. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed on any Lot except as necessary during the construction period. Rubbish, leaves, and trash shall not be disposed of by burning in open fires or incinerators without the consent of Declarant or the Architectural Review Committee.

Section 13. Fences. No lot shall be fenced in any manner except as follows:

(a) A fence may be installed to enclose a swimming pool provided the maximum height of the fence is six (6) feet or the minimum height required by any State of West Virginia or Berkeley County, law, ordinance, statute, rule or regulation mandating the fencing of private swimming pools.

(b) A fence may be installed to border or enclose all or a portion of the back yard of any lot provided the fence is placed no closer to the front lot line of the lot than the rear wall of the residential building constructed on the lot, and further subject to the requirements that the height and color of the fence and the materials used to construct the fence will be subject to the written approval of the Developer, Association, Architectural Review Committee, or their successors or assigns. The Architectural Review Committee may institute a written policy specifying examples of standardized fences which will be permitted to be installed under the terms of this paragraph, the installation of which will not require further written approval of the Developer, Association, Architectural Review Committee, or their successors or assigns. Chain link fence may not be installed on any lot in regard to the matters set forth in this paragraph.

(c) Any fences existing as perimeter boundary line fences for the outer perimeter of the land purchased by the developer and developed into the Dan Ryan Builders, Inc.'s Prentiss Point Subdivision may be permitted to remain standing and in existence, but all interior fences not part of the outer perimeter fencing of said real estate shall not be permitted to remain standing, in existence, or replaced, subject to the exceptions set forth in items (d) and (e) of this section.

(d) The Developer, and its agents and assigns, may construct and install fencing along all or any part of the common areas, including but not limited to along streets, roads, highways, lakes, ponds, or any other bodies of water.

(e) Exception to the prohibition against installing and maintaining fences on any lot may be made the Developer or by the Association, acting by and through the Architectural Review Committee in the same manner as provided by Article VIII, Section 4 of this Declaration of Covenants and Restrictions. Any such exception, including but not limited to approvals as to height, design, materials used to construct, color and location of the proposed fence must be made in writing if approved by the Developer, Association, Architectural Review Committee, or their successors or assigns.

Section 14. Air Conditioning Units. No air conditioning units or parts thereof may be exposed to public view; but same may be installed within the residence, or screened or covered from view so as not to be visible.

Section 15. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view; but same may be installed within the residence or buried underground or screened or covered from view so as not to be visible.

Section 16. Sales of Alcoholic Beverages, Beer and Wine Prohibited. No beer, wine, or other alcoholic beverages of any type or nature shall be sold or stored for sale on any Lots.

Section 17. Swimming Pools. In-ground swimming pools are permissible, but above ground swimming pools may not be constructed, erected or maintained on any lot within the subdivision.

Section 18. Contractors. Only bona fide professional contractors shall be permitted to construct buildings, homes, outbuildings, or improvements of any kind on any Lot. Approval or disapproval of a contractor to perform construction on a Lot shall be subject to the review, approval and disapproval provisions of Article VIII Section 4 of this Declaration.

Section 19. Recreational Vehicles, Motorcycles, Etc. Trail bikes, snow mobiles, all terrain vehicles, mini bikes and similar vehicles may be stored in a garage located on any Lot, but none of such vehicles shall be otherwise placed, parked, used or permitted to remain upon any Lot or road within The Properties. No motorcycles shall be permitted in or on The Properties, except a licensed motorcycle with a muffler may be used for ingress to and egress from a Lot in The Properties.

Section 20. Rental. Homes on Lots shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as: (i) rental for any period less than 180 days, or (ii) any rental, if the occupants of the home are provided customary hotel services, such

as (but not exclusively limited to) bed-and-breakfast, room service, laundry and linen service, except that any owner including a developer or a contractor building a home on any Lot may rent a home for a period of less than 180 days to a bona-fide contract purchaser. Other than the foregoing, an owner shall have the absolute right to lease a home as a non-transient residence for one household. Developer and any contractor building a home on any Lot, however, shall have the right to rent any unsold homes without regard to the limitation aforesaid. Lease of a home shall not relieve the owner from the duty to pay all assessments as provided herein. In the event a tenant fails to comply with the provisions of this Declaration, in addition to all other remedies it may have, the Homeowners Association or any owner may notify the owner of the leased home of such violation(s) and demand that the same be remedied within thirty (30) days after such notice. If such violation(s) is not remedied within said thirty (30) day period, then the owner shall immediately thereafter, at his own cost and expense, institute and diligently prosecute an eviction action against his tenant on account of such violation(s). In the event the owner fails to fulfill the foregoing obligation in a reasonable time and manner, then any other Lot owner, or the Homeowners Association shall have the right, but not the duty or obligation, to institute and prosecute such action.

Section 21. Trash and Garbage: No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers in a neat, clean, and sanitary condition. All Lots shall be free and clear of trash and rubbish at all times and shall be kept in an attractive, sightly manner. Each Lot shall maintain a screened area so that garbage receptacles are not visible from any other Lot, or any interior subdivision road or in the alternative, trash receptacles shall be kept out of public view and inside the house or garage (except for the day when trash pick-up occurs).

Section 22. Clothing, Sheets, Blankets or Laundry. No Lot owner shall cause or permit any clothes, sheets, blankets, or laundry of any kind or other articles to be hung or displayed on the outside of windows or placed on the outside windowsills, walls, patios or balconies of any building, parking areas or other portion of their Lot.

Section 23. Owner's Roster. In order to provide any orderly procedure in the case of title transfers, and to assist in the maintenance of a current, up-to-date roster of Lot owners, each Lot owner shall give the Homeowners Association timely notice of the sale of their Lot.

Section 24. Garages. No garage shall be converted or renovated for any residential living purpose. All garages shall be kept usable as a garage for passenger motor vehicles or other permitted vehicles, subject to the following exception. The Developer or its assigns and agents are permitted to use the garages made part of the model homes as sales offices prior to the respective model home being sold to a purchaser who will occupy the home for residential purposes. Once the home is sold to the initial residential occupant the garage may no longer be used for a real estate sales office or any other business or commercial purpose.

Section 25. Tree Removal. The removal of any living trees from any Lot is prohibited unless such removal is first approved by the Developer, or the Association, or the Architectural Review Board as provided by Article VIII Section 4 of this Declaration.

Section 26. Exterior Burning. No open fires shall be permitted on any of The Properties or Common Properties. All outdoor burning shall be in small, well built, attractive exterior fire places or bar-b-que grills.

Section 27. Discharge of Firearms. The discharge of firearms shall not be permitted within The Properties or Common Properties.

Section 28. Catch Basins and Drainage Areas. Catch basins and drainage areas are for the purpose of the natural flow of water only. No obstructions or debris shall be placed in these areas. No person other than the Developer and its assigns may change or rechannel the drainage flow after location and installation of drainage swales, storm sewers or other storm drains. Developer hereby reserves a perpetual easement across The Properties and Common Properties for the purpose of altering drainage and water flow.

Section 29. Landscaping at Street Intersections. All Lots located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 30. Outdoor Lighting. Outdoor lighting shall be of the type and installation such that no direct glare is visible from adjoining Lots.

Section 31. Construction Debris. During construction, lots shall be kept free and clear of unnecessary and unsightly debris. All trash, rubbish, and debris shall be cleared on a reasonable, periodic basis during construction, and all trash, rubbish and debris shall be promptly removed from the Lot after construction is completed. Existing stormwater runoff drainage

patterns for each Lot shall be protected at all times both during and after construction. During construction, reasonable measures shall be taken to prevent erosion by wind and water.

Section 32. Signs, Lettering and Mail Boxes. The Developer shall determine the location, color, size, design, lettering, and all of the particulars of all mail or delivery boxes and the standards and brackets and name signs for the boxes in order that the area be strictly uniform in appearance with respect to these items. The Developer shall determine the location, color, size, design and lettering (including numbers) of any decorative figures, items, plaques, words or numbers placed on the exterior of any house, garage, or any other improvement placed or located on the Lot. No free standing signs shall be allowed on any Lot except as otherwise provided in this Declaration for identification of the subdivision or the model homes or bona-fide "For Sale" signs for the sale of any Lot. The Developer may designate the Association or the Architectural Review Committee to act for it in the matters set forth in the this paragraph.

Section 33. Yard Ornaments. No vehicle tires of any type may be placed upon a Lot, except when in use and connected to a motor vehicle. Seasonal ornaments celebrating holiday seasons may be placed on a Lot or the improvements thereon, but must be removed upon the expiration of the particular holiday season.

Section 34. Interior Window Treatments. All interior window treatments visible from the front of any house on any Lot shall be white or beige or of a uniform neutral color.

Section 35. Vegetable Gardens. No vegetable gardens or produce may be grown or located in the front yard of any Lot, but may be grown or located in the rear of any Lot. The rear of the Lot is defined as the portion of the Lot behind the back wall of the house located upon the Lot.

Section 36. Outbuildings, Storage Buildings and Storage Barns. Outbuildings, storage buildings, and storage barns may be constructed on the Lot provided they do not violate the setback provisions set forth in this Declaration of Covenants and Restrictions, provided they are located in the back yard of the Lot, and provided they have a width no greater than ten feet, a length no greater than twelve feet, walls (not including the roof) no taller than six feet, and provided they are constructed of wood and of a barn type design with a color matching that of the home on the same lot. No outbuildings, storage barns, or storage buildings made of metal shall be constructed, placed or located upon any lot.

Section 37. Guests. All provisions of this Declaration which govern the conduct of Owners shall also apply to all occupants, guests, agents, and invitees. Every Owner shall cause all occupants of their Lot to comply with this Declaration.

Section 38. Personal Property. All permitted personal property, including, but not limited to, garbage containers, grills, bicycles, toys, yard equipment, lawn mowers, and all other household personal property shall be stored within any permitted residence. Exterior clothes lines are expressly prohibited.

ARTICLE IX

OWNERSHIP AND EASEMENTS

Section 1. Non-Severability. (a) The interests of each owner in the use and benefit of the Common Areas shall be appurtenant to the Lot owned by the owner. No Lot shall be conveyed by the owner separately from the interests in the Common Areas. Any conveyance of any Lot shall automatically transfer the right to use of the Common Areas without the necessity of express reference in the instrument of conveyance.

(b) There shall be no judicial partition of the Common Areas. Each owner, whether by deed, gift, devise or operation of law, for his own benefit and for the benefit of all other owners, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Areas and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment.

Section 2. Ownership of Common Areas. Title to the Common Areas of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision shall be conveyed to the Association from time to time by the Developer or his assignee or grantee, and the Association shall accept conveyance of the Common Areas when made by the Developer, or his assignee or grantee.

Section 3. Easements. The ownership interest in the Common Areas Lots within the Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision are subject to the easements granted and reserved in this Declaration. Each of the easements reserved or granted shall be deemed to be established upon the recordation of this Declaration and shall hence forth be deemed to be covenants running with the land for the use and benefit of the Lot owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the

subdivision. Individual deeds to Lots, may, but shall not be required to, set forth the easements set forth in this Declaration.

(a) The Common Areas and Lots are subject to the easements and rights of way shown on the plats and plans of The Properties.

(b) Every Owner shall have a non-exclusive right and easement of the use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions: (i) the right of the Association, after notice and hearing to suspend an Owner's right to use any recreational facilities and (ii) the right of the Association to dedicate or grant easements over all or any part of the Common Areas.

(c) There are reserved and granted for the benefit of each Lot, as dominant tenement, over, under, across, and through The Properties (including the Common Areas and each Lot) as the servient tenement, non-exclusive easements for utility services.

(d) There are reserved and granted for the benefit of each Lot, as dominant tenement, over, under and across each other Lot as servient tenement, and for the benefit of the Common Areas, as dominant tenements, over, under and across each Lot, as servient tenement, non-exclusive easements for encroachment, support, occupancy and use of such portions of Lots and Common Areas as are encroached upon, used and occupied by the dominant tenement as a result of any original construction design, accretion, erosion, addition, deterioration, decay, error in original construction, movement, settlement, shifting or subsidence of building or structure or any portion thereof, or any other cause. In the event any portion of The Properties is partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement shall exist for as long as the encroachment exists; provided, however, that no valid easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement or encroachment may but need not be cured by repair and restoration of the structure.

(e) There is hereby reserved and granted a non-exclusive easement appurtenant to the Common Areas and to all other Lots, as dominate tenements, through each Lot and the Common Areas as servient tenements, for the support, maintenance and repair of the Common Areas and all Lots.

(f) Developer shall, and hereby expressly reserves, for itself and its assignee and grantee, an easement over and across the Common Areas, as servient tenement for the purpose of reasonable ingress to and egress from, over and across The Properties, including private roads and pathways to the residue of the real estate acquired by the Developer by deed dated October 27, 2004, recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia in Deed Book 780, at page 218.

(g) Upon the recordation of a Supplementary Declaration of Covenants and Restrictions, for any additional sections of Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision, the Lots and Owners of Lots in the annexed section shall have all of the easements specified in this Article and the Lots and Owners of Lots in sections created prior to the annexation shall have all of the easements applied in this Article as though the annexed section was initially a part of this subdivision.

(h) Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted or reserved by the Developer, for itself and its assignees and grantees, for the installation and maintenance of utilities and drainage facilities necessary for the development of The Properties.

(i) There are hereby reserved to the Developer, for itself and its assignees and grantees, and the Association and its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association set forth in this Declaration, including without limitation, the right to enter upon Lots.

(j) There are hereby granted to the Developer, its assignees and grantees, and the Association, as applicable, and their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as set forth in this Declaration. Specifically, but without limiting the generality of the foregoing, there are hereby reserved and granted to Developer, for itself and its assignees and grantees and the Association, easements over all Lots and Common Areas within The Properties for the communications system, the pedestrian circulation system, utility line facilities, ingress and egress rights, for the benefit of the Developer and Association in order for them to carry out their functions and duties and rights as set forth in this Declaration, and access rights in favor of all applicable governmental agencies for the maintenance, repair and enforcement of their applicable duties or obligations with respect to The Properties. In order to effectuate its duties and responsibilities,

inclusive, the Board of Directors of the Association may enter any Lot whenever entry is necessary in connection with the performance of any maintenance or construction which the Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than 24 hours, except in emergency situations.

ARTICLE X

PARKING

Vehicles shall not be parked anywhere in The Properties except wholly within designated parking areas and/or spaces. All parking areas and parking spaces shall be used solely for the parking and storage of motor vehicles used for personal transportation. No motor homes, travel trailers, or campers, or trailers of any kind, dump trucks, commercial road trucks, tractors, or rigs normally used for pulling of hauling trailers, box-trailers, tank trailers, low-boys, flat beds, or other similar vehicles, heavy trucks, truck-type tractors, or other similar vehicles with or without trailers, box trailers, tank trailers, low-boys, flat beds, or other similar vehicles, no matter how propelled, or any pick-up trucks, van truck or similar vehicles having a carrying capacity in excess of one (1) ton, or any construction machinery, boats or boat trailers or trailers of any type shall be parked or stored in any parking area or designated parking space. No part of the Common Areas shall be used for repair, construction or reconstruction of any vehicle, boat or any other item or thing except in an emergency, which time period shall in no event last longer than 24 hours. As long as applicable laws of the State of West Virginia are observed, the Developer or Board of Directors of the Homeowners Association may cause the removal of any vehicle which is in violation of this Article. Parking spaces shall be used only by the occupants of the lots or by the occupants' guests.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration and Amendments. The restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the restrictions of this Declaration shall be automatically extended for

successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots of the entire Dan Ryan Builders, Inc.'s Prentiss Point Single Family Homes Subdivision has been recorded, agreeing to change said restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any such action taken.

Section 2. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post-paid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 3. Remedies. The Association, or any Owner, shall have the right to enforce this Declaration and the restrictions contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of this Declaration or any restrictions contained herein, to restrain violation, to require specific performance and/or to recover damages; and to proceed against any Lot to enforce any lien created by this Declaration. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot, including the costs of reasonable attorney's fees, in the event any legal action is taken by the Association, and such fees, approved by a court of competent jurisdiction, shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 4. Nonwaiver. Failure of the Developer or any Owner, or their respective legal representative, heirs, successors and assigns, to enforce any restrictions contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 5. Assignability. The Developer, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under the Declaration, subject to the Developer's obligations hereunder.

Section 6. Construction and Interpretation. The Association, to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, and interpretation and the enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or

order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners to the end that The Properties shall be preserved and maintained as a viable community.

Section 7. Severability. All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable and the finding by any court of competent jurisdiction that any of them or any clause or phrase thereof, is void, unlawful, or unenforceable shall not effect the validity or enforceability of any other covenants, conditions, restrictions, reservations, clause or phrase thereof.

Section 8. Nonliability. Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association or the Developer, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever, by reason of any use of any, ponds, roadways, streets or other Common Areas. Any and all persons using any such streets, roadways, ponds, easements or other Common Areas shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer or their respective successors or assigns, as the case may be.

Section 9. Applicability. All provisions of the Declaration which govern the conduct of Lot Owners shall also apply to all occupants, guests, agents, and invitees. Every Lot Owner shall cause all occupants of their Lot to comply with this Declaration.

Section 10. The Homeowners Association shall cause to be complied with the requirements of any regulatory or governmental Ground Waters Protection Plan.

WITNESS, the following signatures and seals as of the day and date first above written
by the Developer herein.

DAN RYAN BUILDERS, INC., a Maryland
corporation

By: [Signature] (SEAL)
Daniel de Ojeda, Land Development Manager

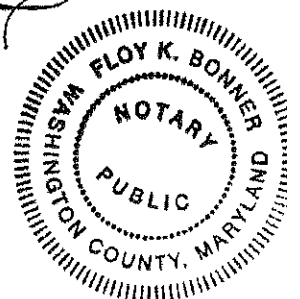
STATE OF MARYLAND

COUNTY OF FREDERICK, to-wit:

The foregoing instrument was acknowledged before me this 24 day of May, 2006,
by Daniel de Ojeda, L and Development Manager of Dan Ryan Builders, Inc., a Maryland
corporation, on behalf of the corporation.

[Signature]
Notary Public

My Commission Expires: January 1, 2010



This document was prepared by Stephen M. Mathias of the law firm of Bowles Rice McDavid
Graff & Love LLP, Post Office Drawer, 1419, Martinsburg, West Virginia 25402.

BERKELEY COUNTY, WV
FILED
June 01, 2006 15:04:46
JOHN W. SMALL JR.
COUNTY CLERK
TRANSACTION NO: 2006020618
BOOK OF DEEDS
Book: 00839 Page: 00001

