

BY-LAWS OF  
MONTICELLO VISTA ROYALE SUBDIVISION MAINTENANCE ASSOCIATION

ARTICLE I

Definitions

SECTION 1. Association Name. "Association" shall mean and refer to the Monticello Vista Royale Subdivision Maintenance Association, a non-profit association organized and existing under the laws of the State of West Virginia.

SECTION 2. Properties. The "Properties" shall mean and refer to all of the lots and parcels of land shown upon a Plat of Monticello Vista Royale Subdivision as shown on "MAP SHOWING PART OF PARCEL 103.1 / TAX MAP 23 ROUTE 20 PLYMOUTH DISTRICT, MERCER CO., WV JOB NO. 97170B DATE: 9-23-02 REVISIONS 9-23-02 ESTABLISHED LOTS 13-27 2-12-03 SCALE: 1" = 80' DRAWN BY: R.S. OK'D BY: WHL /s/ William H. Looney, Jr. APPALACHIAN ENGINEERING & SURVEYING, INC.", which map is of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia as Microfilm Plat No. 14947A & B.

And such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation.

SECTION 3. Additions to Existing Property. Additional lands may become subject to the jurisdiction of the Association in the following manner:

(a) Additions. Upon approval in writing of the Association, pursuant to a vote of a majority of its members, the owner of any property who desires to add it to the jurisdiction of the Association, may file of record a Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this property.

Such Declaration may contain such complementary additions and modifications of the covenants and restrictions of this Association as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme Association. In no event, however, shall such new Declaration revoke, modify, or add to the covenants established with the existing property.

(b) Mergers. Upon a merger or consolidation of the Association with another 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 for the Monticello Vista Royale Subdivision Maintenance Association within the existing property, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any

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revocation, change, or addition to the covenants established for the Monticello Vista Royale Subdivision.

**SECTION 4. Common Properties.** "Common Properties" shall mean and refer to parks, playgrounds, swimming pools, commons, streets, footways, including buildings, structures, personal properties incident thereto, and any other properties owned and maintained by the Association for the common benefit and enjoyment of the residents within the Properties.

**ARTICLE II**

**Location**

**SECTION 2. Principal Office.** The principal office of the Association shall be located at 298 Thomas Jefferson Drive, Princeton, Mercer County, West Virginia. Said principal office may be changed to correspond with the address of the President of the Association as it from time to time may change.

**ARTICLE III**

**Membership**

**SECTION 1. Personnel Eligible.** Every person or entity who is a record owner of a fee or an undivided fee interest in any unit in the Monticello Vista Royale Subdivision shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. Membership need not be approved by the Board of Directors.

**SECTION 2. Transfer of Membership.** The membership appurtenant to a lot shall pass with title to such unit, whether such title shall pass by deed, will, inheritance, or otherwise. Each lot shall be considered a unit.

**ARTICLE IV**

**Voting Rights**

**SECTION 2. Voting Membership.** The Association shall have one class of voting membership:

**CLASS A:** Class A members shall be all those owners of lots.

Class A members shall be entitled to only one vote for all lots in which they hold the interest required by membership. When more than one person holds such interest or interests in any lot, such persons shall be members, and the vote for such lot(s) shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to one lot or multiple lots. Owners of more than one lot shall be entitled to only one vote.

**ARTICLE V**

**Assessments**

**SECTION 1. Basis of Annual Assessment.** The annual assessment shall be Two Hundred Dollars (\$200.00) for each lot (with or without dwelling); any multiple lots owned by the same person will not be subject to an additional fee or assessment. From and after January 1, 2007, the annual assessment may be changed by a majority vote of the members of the Association.

**SECTION 2. Due Date of Annual Assessment.** The annual assessment provided for herein shall become due and payable on the

1st day of January, beginning on January 1, 2007. The Board of Directors may provide for the payment of annual assessments on a periodic basis.

**SECTION 3. Regular and Special Assessments.** After the date of this instrument, written notification, special assessments for sewage and street or any other common purposes may from time to time be levied by the majority vote of the holders of a majority of the membership in the Association at any regular or special meeting of the members.

Written notice of such meeting must be given at least thirty (30) days in advance of such meeting to each member of the Association. Any such assessment shall be payable at that time or times and in the manner fixed by such vote and shall be prorated fairly and equitably among such units on a flat rate per unit, or on the basis of the number of outlets per unit, or the basis of whether or not a residence has been constructed on said unit, or on the number of persons regularly residing in the residence on said unit, or in any other manner fairly related to the use of the sewage and street facilities.

**SECTION 4. Collection of Assessments.** The amount of any regular or special assessment for street purposes, in any respect to the membership appurtenant by any unit, shall be due and payable by, and may be collected by suit in the name of the Association from any person, who, on the day on which such charge or assessment is first due and payable or on any day thereafter prior to the payment in full thereof is, along or with another person or persons, the owners of that unit. In addition to the foregoing remedies, the Board of Directors may, at its election, enforce collection of any regular or special sewage assessment by cutting off from the facilities of the Association any unit in respect of which any charge or assessment is due and unpaid. Any unit must be promptly returned to service upon payment of any such charge or assessment. Any regular or special assessment for street purposes or any other common purpose as hereafter defined shall not be a lien against said unit unless and until the amount of any such assessments have been reduced to judgment and an abstract thereof duly recorded in the Office of the Clerk of the County Commission of Mercer County, West Virginia.

**SECTION 5. 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 the residents in the properties, and in particular, for the improvement and maintenance of properties, services, and facilities devoted to this purpose and the homes situated upon the properties. Pursuant to the foregoing, the Association may use and employ assessments to provide for repair, improvement, and maintenance of the common properties, payment of taxes and insurance thereon for paving, repaving, improvement, repair and maintenance of streets, alleys, and common ways and for construction, reconstruction, repair, maintenance and improvement of both sanitary and storm sewers. The enumeration of specific uses herein, however, shall not be construed to limit the Association to the use of assessments for purposes similar to the foregoing.

**SECTION 6. Subordination of the Lien to Mortgages and Deeds of Trust.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon the properties subject to the assessment;

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provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. It shall be the duty of the Board of Directors to promptly notify the membership of the assessment and due date thereof. Proper receipts shall be issued showing the payment of such assessments.

#### ARTICLE VI

##### Property Rights and Rights of Enjoyment of Common Property

SECTION 1. Use of Property. Each member shall be entitled to the use and enjoyment of the common properties and facilities of the Association

SECTION 2. Additional Rights. Any member may delegate his rights of enjoyment in the Common Properties and Facilities to the members of his family who reside upon the Properties or to any of his tenants who reside thereon under a leasehold interest for a term of one year or more. Such member shall notify that Secretary in writing of the name of any such person and of the relationship of the member of such person. The rights and privileges of such person are subject to suspension, for just cause, to the same extent as those of the member.

#### ARTICLE VIII

##### Association Purposes and Powers

SECTION 1. Purposes and Powers. The Association has been organized for the following purposes:

To promote, encourage, and work for the health, safety, and welfare of the residents within the Monticello Vista Royale Subdivision, Mercer County, West Virginia, and such additions thereto as may hereafter be brought within the jurisdiction of this Association by annexation; by providing, operating, owning, and maintaining common community properties and facilities including, but not limited to, parks, playgrounds, swimming pools, lakes, and other recreational facilities, including buildings, structures, and personal properties incident thereto; to provide maintenance, repair, upkeep and improvement of streets, alleys, ways, storm sewers, sanitary sewers, and easements within the said subdivision; to acquire, hold, own, manage, lease, mortgage, or otherwise deal in and dispose of real or personal property of every kind and character, to accept gifts thereof from living persons and corporations and by Will or otherwise, to do all other acts and things permitted by the statutes under which this Association is formed which shall at any time appear to be conducive to or expedient for the better accomplishment of its purposes and objectives.

#### ARTICLE VIII

##### Meetings

SECTION 1. Annual Meetings. The annual meeting of the Association for the election of the Directors and for the transaction of such other business as may properly come before the

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meeting, shall be held on the 2<sup>nd</sup> Thursday of December of each year, at a place in Mercer County specified in the notice of the meeting.

**SECTION 2. Special Meetings.** A special meeting of the members may be called at any time by the Board of Directors or by written petition signed by one third (1/3) of the members of the Association.

**SECTION 3. Place of Meeting.** All meetings of the members of the Association shall be held in the County of Mercer, State of West Virginia.

**SECTION 4. Notice of Meetings.** Notice of each meeting of the Members, whether annual or special, shall be given to each member by mailing, or emailing, to the last know address of delivering a notice thereof to him personally at least ten (10) days prior to the date of the meeting. Notice of the time, place, or purpose of any annual or special meeting of the members shall be required to be given.

**SECTION 5. Quorum.** At all meetings of the members of the Association the members present in person, or by proxy, must constitute fifty percent of the total members in the Association in order to be deemed a quorum for the transaction of business. In the absence of a quorum, a majority of the members present in person or by proxy may adjourn the meeting from time to time until a quorum be had or those members present may call a further meeting of the members in accordance with Chapter 31, Article 1, Section 4a (6) of the Code of West Virginia. Any meeting of the members may be adjourned from time to time though a quorum be present, and at any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting as originally called.

**SECTION 6. Order of Business.** The order of business at all meetings of the members shall be, insofar as applicable, as follows:

- a. Roll call.
- b. A quorum being present.
- c. Reading of minutes of preceding meeting and action thereon.
- d. Unfinished business.
- e. New business.

The order of business to be followed at any meeting at which a quorum is present may be changed by the consent of a majority of the members of the Association present in person or by proxy at such meeting. Any change at any meeting in said order of business shall be deemed to have been so changed, unless objection thereto shall have been made by a member present in person and entitled to vote at such meeting.

**SECTION 7. Organization.** At every meeting of the members, the President, or in his/her absence, the Vice-President, or in the absence of the President or Vice-President, a chairman chosen by a majority of the members of the Association present in person or by proxy, shall act as chairman. The Secretary of the

Association shall act as Secretary at all meetings of the members. In the absence from any such meeting of the Secretary, the chairman may appoint any person to act as Secretary of the meeting.

**SECTION 8. Voting.** At every meeting of the members, upon all matters, every member shall be entitled to one vote, except that which may be cast in person or by proxy by any person for each unit in which he holds the interest required for membership, who, along or with another person or other persons, holds a membership in the Association. If a membership is held by two persons, the vote shall be as agreed by the two persons and in the absence of agreement, each person shall have a half vote. If a membership is held by three or more persons, the vote of such membership shall be cast according to the wishes of the majority of such persons. At all meetings of the members, all matters, except matters the manner of deciding which is especially regulated by statute, and except as otherwise provided in these by-laws, shall be decided by the vote of a majority of the members of the Association present, in person, or by proxy at such meeting, a quorum being present.

Whenever the vote of members at a meeting thereof is required or permitted to be taken in connection with any action of the Association, the meeting and vote of such members may be dispensed with if all of the members who would have been entitled to vote upon this action, if such meeting were held, shall agree in writing to such action being taken, and such agreement shall have like effect and validity as though the action were duly taken by the unanimous action of all members entitled to vote at a meeting of such members duly called and legally held.

The voting rights of a member shall not be cancelled or otherwise suspended. If rules and regulations of conduct of members regarding the use of common properties are promulgated by the Board of Directors of membership upon a finding that such rules have been violated by a member, that member's privileges may be suspended for a period not exceeding sixty (60) days by the Board of Directors after notice and hearing.

As herein provided, voting may be by proxy. Provided, however, that no proxy shall be valid beyond eleven months of the date of the proxy, and in no event shall be binding upon the purchaser or devisees of the grantor of the proxy.

#### ARTICLE IX

##### Board of Directors

**SECTION 1. General Powers.** The property, affairs, and business of the Association shall be managed by the Board of Directors, except as otherwise provided in these by-laws.

**SECTION 2. Number, Term of Office and Qualifications.** The Board of Directors shall constitute all members of the Association.

**SECTION 3.** All meetings of the Board of Directors will be held at the same time as the meetings of the Association.

#### ARTICLE X

##### Officers

**SECTION 1. Number.** The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer. One person may hold the offices and perform the duties of any two of said officers, except those of President and Vice President.

**SECTION 2. Election, Term of Office, Qualification.** The officers of the Association shall be chosen annually by the Board of Directors. Each officer, except such officers as may be appointed in accordance with the provisions of Section 3 of this Article, shall hold his office until his successor shall have been duly chosen and qualified, or until his death, or until he shall resign, or shall have been removed in the manner hereinafter provided.

**SECTION 3. Appointment of Committees.** The Board of Directors may appoint such other officers, committees or agents as the business of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these by-laws or as the Board of Directors may have time to time determine.

**SECTION 4. Removal.** Any officer may be removed either with or without cause, by a vote of the majority of the whole Board of Directors at any regular meeting of the Board or any special meeting of the Board called for the purpose.

**SECTION 5. Resignations.** Any officer may resign at any time by giving written notice to the Board of Directors or to the President, or to the Secretary of the Association. Any such resignation shall take effect at the time specified therein; or, if the time when it shall become effective shall not be specified therein, then it shall take effect immediately upon its receipt by the Board or the President or the Secretary; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**SECTION 6. Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled for the unexpired portion of the term in the manner prescribed in these by-laws for regular appointment or elections to such offices.

**SECTION 7. The President.** The President shall be the chief executive officer of the Association and shall have general supervision over the business of the Association and over its several officers, subject, however, to the control of the Board of Directors. He shall preside at all meetings of the members and of the Board of Directors. He may sign and execute, in the name of the Association, contracts or other instruments, authorized by the Board of Directors; and, in general, shall perform all duties incident to the office of President, and such other duties as from time to time may be assigned to him by the Board of Directors.

**SECTION 8. The Vice President.** At the request of the President, or in his absence or disability, the Vice President may perform all the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors or the President.

**SECTION 9. The Secretary.** The Secretary shall:

(a) Keep the minutes of the meetings of the members and of the Board of Directors in books provided for the purpose.

(b) See that all notices are duly given in accordance with the provisions of these by-laws or as required by law.

©) Be custodian of the records and of the seal of the Association and see that it is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these by-laws.

(d) Sign such instruments as require the signature of the Secretary.

(e) See that the books, reports, statements, certificates and other documents and records required by law are properly kept and filed.

(f) In general, perform all duties incident to the office of Secretary, and such other duties as from time to time may be assigned to him by the Board of Directors.

**SECTION 10. The Treasurer.** The Treasurer shall:

(a) Have charge and custody of, and be responsible for, all funds and securities of the Association, and deposit all such funds in the name of the Association in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of these by-laws.

(b) Exhibit at all reasonable times his books of accounts and records to any of the Directors of the Association upon request.

©) Receive and give receipts for monies due and payable to the Association from any source whatsoever.

(d) Have charge of the disbursement of the funds of the Association, pursuant to the prior direction and approval of the Board of Directors.

(e) In general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

The Treasurer shall give bond in such amount as shall be fixed by the Board of Directors, the cost of such bond to be borne by the Association.

**SECTION 11. Salaries.** The directors and the officers of the Association shall receive no compensation for their services.

**ARTICLE XI**

**Contracts, Checks, Drafts, Bank Accounts, Etc.**

**SECTION 1. Contracts, etc.** The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances; and, unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or

engagement or to pledge its credit or to render it liable pecuniarily for any purpose, or to any amount.

**SECTION 2. Loans.** No loans shall be contracted on behalf of the Association and no negotiable paper shall be issued in its name, unless authorized by the vote of the Board of Directors. When so authorized by the Board of Directors, any officer or agent of the Association may effect loans and advances at any time for the Association from any bank, trust company or other institution, or from any firm, corporation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidence of indebtedness of the Association, and, when authorized as aforesaid, as security for the payment of any and all loans, advances, indebtedness and liabilities of the Association, may pledge, hypothecate or transfer any and all stocks, securities and other personal property at any time held by the Association, and to that end endorse, assign and deliver the same. Such authority may be general or confined to specific instances. But no deeds of trust (except purchase money deeds of trust) or other encumbrances shall be created by the Association upon its real property unless first there shall have been obtained the consent of a majority of the members of the Association, which consent shall either be in writing or shall be given by vote at a meeting of the members called for the purpose.

**SECTION 3. Disbursements, Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents, of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**SECTION 4. Deposits.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories by any officer or officers of the Association to whom such power may from time to time be delegated by the Board of Directors, and, for such purpose, checks, draft, and other orders for the payment of money which are payable to the order of the Association may be endorsed, assigned and delivered by the President or the Vice President, or the Treasurer, or by any agent or employee of the Association to whom the Board of Directors, by resolution, shall have delegated such power.

**SECTION 5. General and Special Bank Accounts.** The Board of Directors may from time to time authorize the opening and keeping with such banks, trust companies or other depositories as the Board may select of general and special accounts, and may make such special rules and regulations with respect thereto, not inconsistent with the provisions of these by-laws, as they may deem expedient.

#### **ARTICLE XII**

##### **Fiscal Year**

The fiscal year of the Association shall end on the 31st day of December of each year.

#### **ARTICLE XIII**

##### **Seal**

The seal of the Association shall be in the form of a circle and shall bear the words "Monticello Vista Royale Subdivision Maintenance Association."

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ARTICLE XIV

Amendments

The Board of Directors may, from time to time, make, alter, amend and repeal the by-laws of the Association, subject to the right of the members to alter, amend, or repeal any such action taken by the Board.

All by-laws of the Association shall be subject to alteration, amendment, or repeal, and new by-laws may be made by the affirmative vote of a majority of the members of the Association given at an annual meeting or at any special meeting, provided notice of the proposed alteration or repeal or of the proposed new by-laws be included in the notice of such meeting.

ARTICLE XV

Dissolution

Upon dissolution of the corporation, the assets, both real and personal of the corporation, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust, or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation, which said non-profit corporation or organization shall also be exempt from federal income taxation under 26 U.S.C. Section 501.

ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
SECRETARY