

Gateway Mountain

Declaration of Covenants and Restrictions

(Abridged Version)

Last Amended November 7, 2006

Full version recorded in McDowell County, NC, Register of Deeds, BK: CRP 893, PG: 217-244

Purpose: The purpose of these covenants and restrictions is to provide for a safe, stable, attractive and enjoyable residential community which will retain its character after full occupation, thereby maintaining the property values of the homes and assuring the continued enjoyment of the common and private areas by all of the residents of Gateway Mountain Subdivision. Specific reference is hereby made to those Declarations of Covenants, Reservations and Restrictions and Amendments thereto recorded in McDowell County, Rutherford County and in Buncombe County, North Carolina. It is the purpose and intent of these Declarations of Covenants, Reservations and Restrictions to encompass completely, to replace and to supersede referenced herein and to establish by this document a new regime of covenants consistent with the formerly existing covenants except as modified herein.

Architectural Control and Standards

Purpose: It is the intent and purpose of this Article that Gateway Mountain Subdivision shall be developed so that all of the property values will be enhanced by the consistent use of Western North Carolina and Appalachian Architecture and design. To this end architectural review shall be conducted by the Architectural Review Committee (ARC) as constituted in the Bylaws, for the benefit of the subdivision as a whole and shall not necessarily be constrained by the design of existing homes.

Building Specification: No dwelling shall hereafter be erected or placed on any lot other than one detached single-family dwelling containing not less than 1,275 square feet of heated, covered floor space, exclusive of open porches, garages and outbuildings incidental to the residential use of the lot. "Outbuildings incidental to the residential use of the lot means those structures other than the principal residence, listed, described or limited in Gateway Design Guidelines. ARC will not approve any above ground swimming pool.

Building Set-Backs: No part of any porch, step, deck or foundation of a building or other structure shall be erected or placed upon any lot within forty (40) feet from the center of a road or within twenty (20) feet from a side or rear lot line.

Construction: Property owners are not given a set time in which they must build, however, once footers, foundation or septic system is begun, all construction on any dwelling or outbuilding allowed by these restrictions and approved by the Architectural Review Committee shall be externally completed,

within eighteen (18) months. After thirty (30) days written notice to any party not so completing the construction, the Committee or any owner may petition for the court for an order to remove any material from the lot.

Variance: Subject to written approval by the Board, the ARC may authorize variances from compliance with any of its guidelines and from restrictions contained in this Article, when circumstances such as topography, natural obstructions, hardship architectural merit, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may be granted however, only when unique circumstances dictate. No variance may be granted which would prevent ARC from denying a variance in other circumstances. For purposes of this section, inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of financing shall not be considered a hardship warranting a variance. The petition for a variance must be submitted in writing and contain all information the Architectural Review Committee rules require. If neither granted nor denied within 60 days after receipt of the petition by ARC, the petition shall be deemed denied unless an appeal is made directly to the Board and the Board grants the requested variance. To be effective, a variance hereunder shall be executed on behalf of the Association, be approved by the Board, shall refer specifically to this Declaration and shall be recorded in the county in which the deed is recorded. The variance must be written by the ARC or the Board and recorded at the lot owner's expense.

Use Restrictions

Single-Family Residential Use: All lots shall be used, improved and devoted exclusively to single family residential use with only one principle residential structure per lot. No multi-family dwellings or commercial or business uses shall be permitted. Nothing herein shall be deemed to prevent an owner from leasing a lot, subject to all provisions of this Declaration and to regulations of the Association, or from conducting any legal ancillary business or home office when such activities are not detectable by sight, sound or smell from outside the lot and does not otherwise constitute a nuisance or hazard to residents.

Nuisances: No noxious or offensive activities shall be conducted upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. All lots shall be kept clear of accumulations of brush, trash, junk, building materials and inoperable vehicles.

Animals and Pets: No animals, livestock or poultry of any kind may be kept or permitted on any lot except that dogs, cats and other usual household pets may be kept in reasonable number, provided that they are not kept, bred or maintained for any commercial or illegal purpose and do not endanger the health of or unreasonably disturb lot owners. The Board of Directors may by adoption of rules and regulations, (i) prohibit animals which are determined by the Board to be dangerous or detrimental to the health, safety and welfare of the lot owners and (ii) prohibit or restrict any pet from travel upon or

use of the common areas. Such rules and regulations may prohibit animals as to size, weight or type when such characteristics reasonably relate to the purposes to which these restrictions pertain. In the event any pet becomes a nuisance or a threat, in the opinion of the Board, it shall be removed from the properties.

Motor Vehicles and Water Craft: (a) Vehicles. The Board shall have the power to place any reasonable restrictions upon the use of roadways or waterways. This includes but is not limited to the types and sizes of vehicles, including motor cycles, or water craft, the maximum and minimum speeds of vehicles, all necessary traffic and parking regulations and the maximum noise level of vehicles. (b) Parking. Motor vehicles may be parked only in designated parking areas in accordance with rules and regulations of the Association. (c) Inoperable Vehicles. No stripped, partially wrecked or junked motor vehicle or part thereof may be parked or kept on any lot. All motor vehicles of any type kept on any lot shall be kept in good running repair and shall have current registration and if applicable, current inspection certificate. Repair of vehicles within the properties is permitted only within an entirely closed garage.

Mining, Drilling, Excavation and Quarrying: No oil or gas drilling or mineral mining, excavating, tunneling or quarrying shall be permitted on any lot by any person or corporation.

Trailers, Tents and Mobile Homes: No trailer, tent or camper, present or former mobile home, motor home, shack, garage, barn or non-residential outbuilding parked, placed or erected on any lot shall at any time be used as a residence temporarily or permanently. However, an owner of a completed dwelling may store such recreational vehicles as a motor home, camper or boat on his or her lot so long as it is not visible from other lots or from the roads. Proper screening may be required.

Signs: No signs, flags, statues or other such object shall be displayed to public view on any lot or in the common area except by the Declarant and except those which specifically comply with this section or are approved by the Architectural Review Committee as being compliant with rules and regulations set by the Association and approved by the Architectural Review Committee, except that (a) the flag of the United States and the flag of North Carolina, of a size no greater than four feet by six feet may be displayed exclusively on property owned by the member, provided that the flag of the United States must be flown in a manner consistent with the patriotic customs set forth in 4 U.S.C. Sections 5 – 10, as amended, governing the display and use of the flag of the United States; and (b) political signs that attempt to influence the outcome of an election, including supporting or opposing an issue on the election ballot, may be displayed exclusively on property owned by the member, subject to regulations of the Board, governing times of display and the size and number of such signs.

Maintenance of Lots, Landscaping and Gardening: Each owner shall maintain his lot(s) and all improvements thereon. All landscaping and natural vegetation are to be kept in a presentable manner. Small, non-commercial gardening is permitted. All of these responsibilities and uses are to be

performed with due regard to adjoining owners. No clear-cutting of timber shall be permitted except such as is necessary for placement of and access to a home. Select cutting for views is acceptable.

Burning: No open fires shall be permitted without a burning permit from the appropriate governmental agency. Such burning must comply with applicable regulations.

Trash: Garbage and trash must be disposed of, covered and kept out of sight and may not be thrown into any drainage area.

Firearms and Fireworks: No firearms or fireworks may be discharged or ignited on any part of the properties.

Game Refuge: No bird or animal, domestic or wild of any size may be hunted, captured, killed or injured on any part of the properties, except as may be authorized and regulated from time to time by the Board of Directors and appropriate governmental bodies, to control overpopulation of animals on the mountain.

Street Lights or Security Lights: Automatic security lighting such as that provided by power companies is prohibited. Low voltage path/patio hooded lighting is permissible provided that such lighting is shielded or directed in such a way that the direct light is not visible from neighboring lots, roadways or other common areas. The Association has the right, without trespass, to remove such lights if installed.

For more information regarding the Protective Covenants and Restrictions, contact the Gateway Mountain Property Owners Association office at: (828) 668-7878.