

PROTECTIVE COVENANTS, BERRY MOUNTAIN SUBDIVISION
MATHIAS, WEST VIRGINIA

1. Only one (1) dwelling may be placed on any lot. No dwelling shall be permitted on any lot unless the main floor area, exclusive of porches, garages, carports, etc., is at least 600 square feet, and unless the total length of the dwelling at ground level is at least thirty (30) feet, excluding porches, garages, carports, etc.
2. There shall be no resubdivision of any lot or parcel unless any building lots created by such subdivision contain a minimum of three (3) acres each.
3. No house, garage, barn, shed, fence or any other structure shall be erected, placed or altered on any building lot until the material used and the external design and location thereof have been approved in writing by A. H. Young, Jr., Inc., or its assigns (hereafter referred to as "Young, Inc."); provided, however, that should Young, Inc., fail to approve or disapprove said design and/or location within thirty (30) days after submission, such approval will not be required.
4. No building shall be built closer than seventy (70) feet from the center line of any road right-of-way, twenty (20) feet from the side lines and fifty (50) feet from the rear line of its lot. The construction of any building shall be diligently pursued to completion within a reasonable time after such work has begun, and the exterior of any structure must be completed within one year of the date of the beginning of construction.
5. No part or portion of the property or of any building which may be erected thereon shall be used or permitted to be used for any trade, profession, business, manufacturing or mercantile purpose without written permission of a majority of the owners of lots in Berry Mountain Subdivision.
6. No basement, shack, garage, barn or other outbuilding shall at any time be used as a residence. However, housetrailer, motor homes, campers or tents may be temporarily utilized, but shall not be left on any tract when not in use, or, in any event, for more than four (4) weeks at a time without written permission of Young, Inc.
7. All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly by reason of the accumulation of trash, rubbish, garbage, debris, junk or other refuse thereon. No junked motor vehicle shall be allowed to stand outside a garage upon any lot. (Any vehicle not currently licensed shall be presumed to be junk.) No commercial motor vehicles (including, but not limited to, trucks over 2 ton, buses, school buses, construction equipment, etc.) will be permitted to stand on any lot unless housed in a building approved as aforesaid.
8. No noxious or offensive activity or other nuisance shall be permitted, erected, placed or allowed to remain upon any lot; nor shall the premises be used in any way for any purpose which might endanger the health or unreasonably disturb the quiet of any owner of adjoining land.
9. No pigs, hogs, goats, chickens or other fowl shall be kept or maintained on any lot; however, this provision shall not be construed to prevent owners of lots from keeping any household pets or sheep, steers, milk cows or saddle horses, provided they are not kept for commercial purposes, and provided there is at least one acre of open pasture available for each grazing animal kept.
10. No shot gun, rifle or small arms shooting shall be permitted within the bounds of this subdivision, nor shall any hunting be permitted.
11. Owners of all lots in Berry Mountain Subdivision will hold, for use as access, permanent easements twenty (20) feet wide on both sides of the center of all commonly-used roads leading from any lot to Dispanet Hollow Road, subject to payment to Young, Inc., of an annual maintenance assessment of up to \$30.00 per lot. This ceiling may be adjusted from year to year by Young, Inc., by a percentage not to exceed the percentage of increase in the Bureau of Labor Statistics Cost

of Living Index for the preceding twelve months.) Said assessment shall also constitute a lien on said lot, which lien may be publicly recorded in the manner prescribed by law if not paid within ninety (90) days after due date. Said assessment will be in equal amounts on each of the lots so affected. Young, Inc., will serve as trustee to collect, hold and spend said funds for maintenance and improvement of commonly-used roads, and will keep said funds in a separate trustee account. This assessment will begin 15 May next after conveyance of lot by developer, and assessment will be payable on 15 May of each year. This covenant will be subject to the following exceptions:

(1) Said assessments do not apply to Lots #2 and #3, which front on Dispanet Hollow Road and have no direct access to the commonly-used drive, nor to Lots #4 and #5, in the event separate drives are built on them from Dispanet Hollow Road and use of common drive is permanently discontinued.

(2) In case one person owns more than one lot, he will pay full assessment on the first lot and one-third (1/3) assessment on any other lot owned as long as it does not have a separate dwelling on it.

12. No easement may be granted to owners of land adjoining Berry Mountain Subdivision for access to Dispanet Hollow Road via any commonly-used road in said subdivision unless land so receiving access has, by instrument duly filed in the records of Hardy County, W. Va., and with written permission of a majority of lot owners in Berry Mountain Subdivision, become a part of the Berry Mountain Community and subject to all these covenants; and with owners of said adjoining land legally committed to sharing in maintenance of said commonly-used roads in accordance with these covenants.

13. Young, Inc., reserves the right to erect and maintain all utility poles, pipe, conduits, lines and equipment, or to grant easements or rights-of-way therefor, with the right of ingress or egress for the purpose of erection or maintenance on, over or under a strip of land twenty (20) feet wide at any point along the side, rear or front lines of any of the lots in the subdivision.

14. The design of any driveway taking access off a commonly-used road must be approved by Young, Inc., and will include a culvert of a minimum diameter of twelve (12) inches, if such is required to assure proper drainage of the road.

15. Cutting and/or topping of trees is permitted for clearing a house site, drive, or for opening a view from a house site. Cutting of any other trees with trunks more than eight (8) inches in diameter or more than thirty (30) feet in height can be done only with the written permission of Young, Inc.

16. In the event of a violation or breach of any of these covenants, owners of lots in the subdivision, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof, or to prevent the violation or breach in any event. The failure to enforce any right, reservation, restriction or condition contained in this Declaration of Covenants, however long continued, shall not be deemed a waiver of the rights to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. The invalidation by any court of any covenant in this Declaration shall in no way affect any of the other covenants, but they shall remain in full force and effect.

17. These covenants are to run with the land and are to be effective for a period of twenty (20) years, and thereafter are to be automatically renewed for successive periods of ten (10) years, unless changed by a majority vote of the then holders of lots in Berry Mountain Subdivision.

18. All of the foregoing matters shall be incorporated by reference hereto in deeds to lots in said Berry Mountain Subdivision, and shall be binding and effective as though set out verbatim in said deeds, it being understood that each of the foregoing items shall be referenced hereto in any said deeds and become a part and parcel of any such deed, and that the protective covenants contained herein shall be placed of record in the office of the Clerk of the County Court of Hardy County, West Virginia, prior to any conveyance of any lot within the said Berry Mountain Subdivision, and that any said conveyance shall make reference in the form of a Deed Book and Page Number to the Protective Covenants, Reservations and Provisions contained herein.