

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BURTON MOUNTAIN SUBDIVISION

DECLARATION RE: BURTON MOUNTAIN SUBDIVISION AND BURTON
MOUNTAIN PROPERTY OWNERS ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 30th day of APRIL, 1990 by Parker, Griffin & Martin Land, Inc. (hereinafter referred to as the "Declarant"), as covenants, conditions and restrictions for Burton Mountain Subdivision as follows:

W I T N E S S E T H:

WHEREAS, the Declarant is the owners of the property described in Article 2 of this Declaration lying in Land Lot 6 of the 1st Land District of Rabun County, Georgia; and

WHEREAS, it is to the best interest, benefit and advantage of the Declarant and to each and every future owner of the realty subject to this Declaration, that the covenants, conditions and restrictions set forth in this Declaration run with the lands covered by this Declaration; and

WHEREAS, the undersigned Declarant has formed an incorporated nonprofit owners association which shall have the powers and responsibilities to maintain and administer certain properties and facilities, and which as a beneficiary of this Declaration and as agent of the owners of property now or hereafter made subject to this Declaration, shall have the power and responsibility to administer and enforce the provisions of this Declaration and to collect and disburse the assessments and the charges hereinafter set forth; and

WHEREAS, this Declaration is made to the benefit of the Declarant and any future owner of any property in said subdivision so as to provide for the orderly, similar, compatible, peaceful, acceptable utilization of the properties in said subdivision to the benefit of each owner and for the protection of the property interest owned by each.

NOW THEREFORE, the undersigned Declarant does hereby establish and declare the following covenants, conditions and restrictions to apply to the property described in Article 2 of this Declaration.

ARTICLE 1

Definitions. The following terms when used in the Declaration of covenants (unless the Context shall clearly indicate to the contrary), shall have the following meaning:

(a) "Architectural Control Committee" shall mean a committee consisting of at least (3) but not more than (5) members of the Association who shall review plans and make all decisions concerning construction.

(b) "Association" shall mean and refer to The Burton Mountain Property Owners Association, Inc., a nonprofit organization organized and existing under the laws of the State of Georgia.

(c) "Covenants and Restrictions" shall mean and refer to all covenants, restrictions, easements and charges and liens set forth in this Declaration or as created by amendment under the powers of the Association.

(d) "Declarant" shall mean Parker, Griffin and Martin Land, Inc.

(e) "Lot" shall mean and refer to any numbered plot of land comprising a single dwelling site designated on any plat of survey recorded in the office of the Clerk of Superior Court of Rabun County for this subdivision now or hereafter made subject to these covenants and restrictions.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot, excluding however, Declarant and those persons who shall have such interest merely as security for the performance of an obligation. The Declarant shall become an owner at some future date to be determined by Declarant.

(g) "Manager" shall mean and refer to any person with whom the Association contracts to administer and maintain the facilities maintained by the Association.

(h) "Mortgage" shall mean and refer to any security instrument by means of which title to any lot is conveyed or encumbered to secure a debt, including without limiting the generality of the foregoing, security deeds, deeds to security debt, mortgages and deeds of trust.

(i) "Person" shall mean and refer to any natural person, corporation, partnership, limited partnership, joint venture, association (but not the Burton Mountain Property Owners Association) or any other such entity owning any lot in the subdivision or dealing in any capacity with the Burton Mountain Property Owners Association.

(j) "Restricted Property" shall mean and refer to all real property set forth in Article 2 of this Declaration.

(k) "Subdivision" shall mean the Burton Mountain Subdivision.

ARTICLE 2 Property Subject to this Declaration

The property subject to this Declaration are the lots which are, by the recording of this Declaration, subjected to the covenants, conditions and restrictions hereinafter set forth which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration are those certain lots set forth and parceled from the following:

All those tracts or parcels of land lying and being in Land Lot 6 of the First Land District of Rabun County, Georgia, consisting of 100 acres and being shown upon those certain plats of survey prepared by T. Lamar Edwards, Georgia Registered Land Surveyor No. 1837 dated 10-28-88, 11-15-88 & 11-16-88 which are recorded in the office of the Clerk of the Rabun County Superior Court in Plat Book 28, pages 200, 201, 202. Reference is had and made to said plat and the record of the same for a full and complete description of the property herein described and encumbered.

ARTICLE 3
Architectural Control; Land Use Restrictions;
Prohibited Activities

Generally the lots and properties shall be restricted pursuant to the restrictions herein itemized as follows:

1. All lots shall be used for single family residential purposes only. Only one single family residence may be constructed or erected on any such lot.

2. No lot shall be used for any commercial activity unless specifically provided by the Association pursuant to the variance provisions of this Declaration.

3. No lot or lots within the subdivision shall be further subdivided, except that Declarant reserves the right to modify or change any lot prior to it first being conveyed to an owner.

4. No farm animals or livestock, including but not limited to, cattle, sheep, horses, pigs, poultry or barnyard animals of any kind shall be kept or maintained upon any lot, except for ordinary domestic household pets, such as dogs, cats or pet birds which may be kept thereon in reasonable numbers as pets for the pleasure and use of the lot owners, but not for any commercial use or purposes. No pet or animal may be kept after such animal is or becomes an annoyance or nuisance to the neighborhood. A nuisance for the purpose of this instrument, shall include, but shall not be limited to, activity resulting in persistent noise, noxious odor or annoying trespassing.

5. No mobile home may be placed upon any lot. For the purpose of this Declaration the term "mobile home" shall include trailers, single or doublewide, modular homes or any home manufactured off the lot or any home defined as a mobile home pursuant to the Official Code of Georgia Annotated. No over the road camper or recreational vehicle will be stored or occupied on the property except by bona fide guests visiting with an owner who can provide off road parking for the recreational vehicle. Motorcycles, three-wheelers, four-wheelers, and any off-road vehicles which are not supplied with mufflers, lights and turn signaling devices intended to prove for their legality on public roads and highways shall be prohibited from use within the subdivision. Boats stored on the property shall be screened from view.

6. No part of the lot shall be used or maintained as a dumping ground for rubbish or garbage. Trash, garbage or other waste shall be kept in sanitary containers in a screened area or hidden from view and regularly taken to county dump sites or other appropriate facilities for disposal. No building materials or any other items used for building purposes shall be stored on any lot except for the purposes of construction on such lot and such materials shall not be stored longer than the length of time reasonably necessary for completion of such construction. No lot owners shall allow the accumulation on any lot of inoperative automobiles, auto parts or any other foreign or unsightly materials.

7. No signs other than road signs shall be permitted along any roads or easements in the subdivision except a hand crafted rustic sign, no longer than three (3) square feet may designate the owner's name or place of residence. A single "for sale" sign of any size routinely used by real estate brokers may be placed upon any lot.

8. The building of any structure upon any lot shall first be approved by the Architectural Control Committee. The Architectural Control Committee will approve the construction of all buildings, site preparation, site development and landscaping of each lot using the following guide lines:

a. All owners will submit a complete architectural design plans and specifications for the construction of all residences and support buildings.

b. All residences will contain a minimum of 1800 square feet of climate controlled living area and the general design shall be complimentary to the mountain topography, the natural rustic environment.

c. Each structure to be of a permanent nature.

d. Designs must show all elevations of the buildings complete with exterior finishes and texture of materials for the residence and support buildings, including full color scheme.

e. Tin roofing, vinyl or aluminum siding, cornice or soffitt material, exposed concrete block or unfinished concrete will not be approved.

f. All construction must be completed within one year of starting.

g. Low consumption water appliances such as toilets, showers, washing machines, dishwashers, hot tubs, kitchen and lavatory valves will be used in all residences.

h. Buildings shall not be occupied before completion.

i. A 50 foot set back line is recommended, where possible.

j. Any mechanical or electrical devices that will interfere with radio, television or telephone signals will not be approved.

9. All building sites, development and landscaping plans shall include the following:

a. Topographical map of the area to be developed.

b. Driveway entrance plan, type and texture of paving and parking area for three vehicles.

c. Site location of residence and all support buildings, fuel storage, exterior laundry devices, antennas and garbage storage.

d. Storm and water drainage plan.

e. Location and variety of all plants, shrubbery, ground cover, existing trees, new trees and mulch areas.

f. Location of septic system as approved by the State Health Department.

h. High-maintenance lawns, i.e. grass, are not recommended.

10. The Architectural Control Committee will act with reasonable promptness upon receipt of all requests and will not unreasonably withhold approval of requests.

11. Road and utility damage caused by construction will be repaired by the property owner for whom the construction is being performed.

12. All lots, together with exterior of all residences and improvements located thereon, shall be maintained in a neat and attractive condition by their respective owners. Such maintenance shall include, but shall not be limited to, the removal of all debris that results from clearing for building purposes or from any act of God. Should any owner fail to

properly maintain any property in a neat or attractive condition, the Association may and is hereby granted the authority to come upon the property and render the same neat and attractive billing the owner for any cost incurred from such activity. The standard of neatness shall be the plans and specifications submitted by owner and approved by the Architectural Control Committee.

13. All persons using the road easements or other properties of the owners' association shall do so at his or her own risk and shall hold the Declarant harmless from any bodily injury or injury to property resulting from use and each lot owner hereby releases the Declarant, the Association, their directors, officers and employees from any such claim now or hereafter arising as an occasion of such use.

14. Any provision herein notwithstanding the Declarant and the Association shall have the authority to grant variances of any prohibition set out in Items 1 through 13 of Article 3 provided that the Declarant or the Association shall first reasonably determine from appropriate evidence and consideration that the allowing of any previously denied activity will not constitute a nuisance to other occupants of the subdivision or unreasonably interfere with the peaceful enjoyment of the subdivision by the other owners. The Declarant shall have the sole authority to grant variances pursuant to this item. The Declarant shall and does hereby notify each perspective owner that he intends to transfer this authority to the Association at some future date to be decided by Declarant. Upon transfer of this authority to the Association the Association shall be the sole authority for the granting of variances to the prohibitions set forth in this Article 3. The Association shall grant variances, when appropriate, to the prohibitions of this Article 3 upon a showing of reasonableness by any applicant thereto pursuant to the procedure, rules and regulations set forth in the Articles of Incorporation and the constitution of By-Laws of the Association.

ARTICLE 4 Easements and Privileges

Declarant is constructing and providing for the Subdivision the necessary roads and easements for ingress and egress to the various properties and a community water system for the supply of potable water for each lot in the subdivision. The water system will be constructed pursuant to the rules and regulations of the Georgia Department of Natural Resources concerning water systems for subdivisions with fourteen (14) or greater parcels. All roads and water systems in the subdivision shall remain the property of Declarant until such time as Declarant shall complete the construction of any road or water system and then the same shall be transferred to the Association at such time as shall be decided by Declarant. The Declarant may impose reasonable use restrictions on any road or water system so as to provide for a uniform and proper utilization of the facilities of the subdivision to all owners therein. The Declarant or the Association, as the case may be, shall have the authority to convey any water system or road easement to a governmental entity which might be receptive to accepting title to the same with the commitment to provide the same services to the subdivision owners as would be applicable to the Association.

The Declarant reserves for itself, its heirs, successors and assigns, a perpetual non-exclusive easement for installation and maintenance of water, telephone, electric and cable television lines within the right-of-way of all streets and roads shown upon those certain plats of survey for Burton Mountain Subdivision. In addition, Declarant reserves for itself, its heirs, successors and assigns and future lot owners an easement for installation and maintenance of water, telephone, electric and cable television lines along the common lot line dividing any and all lots in order to provide such utility service to any lot. Any person utilizing such easement shall be responsible for any

damage or maintenance occasioned by such use. Declarant also grants to each owner a perpetual non-exclusive easement for ingress and egress over and across any road shown on plats of survey for Burton Mountain Subdivision. Any privilege, limitation or easement retained herein may at the option of Declarant be conveyed at any time to the Association.

Each lot and the owner or owners thereof are hereby granted a non-exclusive privilege of tapping on to the community water system for the purpose of providing water for domestic purposes to a single-family dwelling on any lot. The Association or Declarant may collect an additional tap on fee and provide for such rules and regulations as shall be reasonably imposed for the use of such system. Declarant hereby notifies each owner that in order to connect to the water the owner will be required to provide suitable plumbing and connections to minimize the likelihood of water being wasted, including check valves, pressure relief valves, regulators, water meters and other reasonable and suitable connections and piping. The "tap-on" charge shall be \$ 0 unless increased by the Association.

ARTICLE 5 Property Owners Association

(1) Burton Mountain Property Owners Assoc., Inc., is a Georgia non-profit corporation organized for the purposes of managing, maintaining and supervising the roads, streets and water systems in Burton Mountain Subdivision and any other property hereinafter owned by Burton Mountain Property Owners Assoc., Inc. All owners of a lot in Burton Mountain Subdivision will be members of Burton Mountain Property Owners Assoc., Inc.

(2) The appointment and election of members of the board of directors and officers and all meetings of members of the Association shall be held in accordance with the Articles of Incorporation and By-Laws of the Association.

(3) Upon conveyance of these items to the Association, the Association shall be the sole authority as to the access, maintenance and upkeep of such facilities. In no event may the Association revoke or deny the perpetual easement granted for the use of the same but such easement is granted and shall be used subject to appropriate assessments, liens, and other regulation reasonably adopted by the Association for the orderly and proper utilization of such easements and water system including the maintenance and upkeep of the same. Such rules and regulations for the use of the easements and the water system shall be adopted pursuant to the constitution and by-laws of the Association.

ARTICLE 6 Assessments

(1) For the purposes of paying the costs of maintenance and repair of the streets, roads and water system serving the subdivision assessments shall be made in accordance with the Declaration, the Articles of Incorporation and By-Laws of the Association.

(2) Maintenance and repair of the water system shall be the responsibility of the Association. Each lot owner shall pay an initial assessment to the Association in the amount of \$1,000.00 at such time as a lot shall be purchased and closing procured. The initial assessment shall be paid directly to the Association. After the passing of (2) years or actual tap on, whichever shall first occur, each owner shall pay the assessment for maintenance of the water system as shall be established by the Association. In addition to a maintenance assessment the Association may assess a per gallon or per cubic foot charge.

(3) Assessments for the use, maintenance and repair of all roads in the subdivision shall be made against each lot. Assessments for use, maintenance and repair of subdivision roads shall be due and payable at the time such lot is conveyed by the Declarant to an owner and such assessments shall initially be the amount of \$_____ per quarter until such time as it may be changed or modified pursuant to the constitution and by-laws of the Association.

(4) If an assessment is not paid on or before the date when due then such assessment shall become delinquent and shall, together with such interest thereon and the costs of the collection thereof if collection is necessary, there upon become a continuing lien on the member's property which shall bind such property in the hands of the owner, his heirs, designees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the owner to pay such assessment shall remain his personal obligation and shall also pass to his successors in title. Such owner shall nevertheless remain as fully obligated as before to pay the Association any and all amounts which he was obligated to pay immediately preceding a transfer and such owner and successors in title shall be jointly and severally liable with the respect thereto, notwithstanding any agreement between such owners and successors in title creating any indemnification or transfer of the responsibility. Each owner by acceptance of a deed or other conveyance of his or her property, invest in the Association or its agents the right and power to bring all actions against him or her personally for the collection of such charge as a debt and to foreclose the aforesaid lien in an appropriate proceeding and appropriate court. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other owners.

If the assessments is not paid within (90) days after due date, the Association may also suspend the membership rights of the delinquent owner or member including the right to vote, the right of enjoyment in and to the water system and other facilities and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such member's obligation to pay assessments, due during the period of such suspension and shall not affect the permanent charge and lien on such member's property in favor of the Association. The Association shall be the sole authority to cancel any easement or water privileges for the non-payment of reasonable assessments.

ARTICLE 7 General Provisions

This declaration of covenants, conditions and restrictions shall run with the land and shall be binding upon all owners of lots in Burton Mountain Subdivision and all persons claiming under them for a period of twenty (20) years from the date of this declaration which is recorded in the Office of the Clerk of Rabun Superior Court, after which time said declaration shall be automatically renewed for successive periods of five (5) years, unless an instrument signed by two-thirds (2/3) of the then owners of the lots in Burton Mountain Subdivision, exclusive of the parties who may hold title securing an indebtedness, has been recorded on the deed records of the Clerk of Rabun Superior Court, such instrument containing an agreement to change this declaration in whole or in part. This declaration may also be amended during the initial twenty (20) year period or the five (5) year extension period by a similar recorded instrument signed by two-thirds (2/3) of the then owners of lots in Burton Mountain Subdivision.

It is expressly provided that a breach of any of the covenants, conditions and restrictions contained herein shall not render invalid the lien of any mortgage or deed to secure debt made in good faith and for value, as to the lot involved; but, said covenants, conditions and restrictions shall be binding upon any subsequent owner whose title is acquired as a result of foreclosure, sale under power, inheritance, devise or otherwise.

Enforcement of the covenants, conditions and restrictions contained herein and of any other provisions hereof shall be by an appropriate proceeding at law or in equity against any person or persons violating or attempting to violate any of said provisions, either to restrain violation, to enforce personal liability or to recover damages, or by any lien or charge. The failure of Declarant, the association or any member of the association to enforce any of said covenants, conditions, restrictions or other provisions hereof, shall not be deemed a waiver of the right to do so thereafter.

Whenever possible, each provision of this declaration shall be interpreted in such manner as to be effective and valid, but if any provision be held ineffective or invalid, such holding shall not effect the validity of any other provision and to this end the provisions of this declaration are declared to be severable.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on the day and year first above written.

PARKER, GRIFFIN & MARTIN LAND, INC.

William A. Parker, III L.S.
William A. Parker, III

Norwood Griffin L.S.
Norwood Griffin

John R. Martin L.S.
John R. Martin

RECORDED THIS THE 15TH DAY OF MAY, 1990

J. J. [Signature]

CLERK, S.C.