

Corkill Mountain Estates

DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS, EXCEPTIONS, AND RESERVATIONS APPLICABLE to CORKILL MOUNTAIN ESTATES

This Declaration is made this the 1st day of October, 2005, by PATRICK W. CORKILL, AND WIFE, TERESA K. CORKILL, hereinafter referred to as the "Declarant". The Declarant is the owner and developer of that certain tract or parcel of real property lying and being in Ellijay Township, Macon County, North Carolina, and being more fully described in that deed recorded in the Office of the Register of Deeds for Macon County, North Carolina, at Deed Book R-28, Page 553, and The Declarant has subdivided said property as shown on the above described plat of survey and proposes to develop said property into residential tracts; and

The Declarant desires to establish an orderly plan of residential development upon the various lots; and

The Declarant proposes to take all reasonable steps required to insure the quiet enjoyment and ecological beauty of the subject property.

NOW, THEREFORE, the Declarant does hereby make, declare, and publish their intention and desire to submit and do hereby submit the above described property to be held, sold, enjoyed, and conveyed, subject to the following restrictive covenants, conditions, exceptions, and reservations, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of said property and all of which constitute covenants running with said land which shall be binding on all parties having or acquiring any right, title, or interest: in said property or any part thereof, and shall inure too the benefit of and shall be enforceable by each owner of a lot contained therein:

1. Said land shall be used for residential purposes (including the construction, maintenance, roadways providing access to and from various lots within the subdivision referred to hereinabove), provided that the homeowner may conduct a business from his residence as provided for in paragraph three (3). Any family house or home shall contain at: least Fourteen hundred (1400) square feet of finished, heated, living space and shall not exceed two stories in height, exclusive of basement. Any garage, carport, or other outbuilding that is detached from the dwelling shall be constructed of like material and have a similar appearance to the residential dwelling.

2. No commercial signs may be erected except a "For Sale" or "For Rent" erected by a real estate broker or the homeowner or such signs as may be required by legal proceedings. However, each residence may have a sign with the name of the owner and property.

3. No commercial. nor manufacturing establishment, factory, public garage, sanitarium or hospital of any kind will be erected, licensed or maintained on said land. No business or commercial activity shall be conducted on or from any lot which: (a) solicits the presence of the general public upon said lot for the purpose of purchasing

goods or services, or (b) which creates noises, odors, or vibrations that would in any way be obnoxious or offensive to adjoining lot owners; provided, however, that nothing herein shall be construed as prohibiting the Developer, their heirs, successors or assigns, or agents thereof, from constructing one or more dwellings or model residences, and using said dwelling or model residence for the purpose of selling lots in the subdivision, and exhibiting the same, or inviting prospective purchasers to the same for the purpose of making said sales.

4. No mobile homes or trailers, tents or temporary type residence shall be placed on or located on any lot. Owners may park travel trailers or motor homes upon their lots after a permanent residence has been constructed, provided said vehicles are not occupied. A lot owner may live in a mobile home, travel trailer, or motorized home not longer than Twelve (12) cumulative months while his home is being constructed.

5. No noxious or offensive activity shall be carried on, on any lot, nor shall anything be done thereon intending to cause embarrassment, discomfort, annoyance, or a nuisance to the neighborhood. No fuel tanks or similar storage receptacles shall be placed so as to be visible from a subdivision road. Wrecked vehicles and vehicles without current tags will not be permitted unless they are in an enclosed garage.

6. No lot shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All trash, garbage, and other waste shall be kept in sanitary containers provided by each owner in a screened or enclosed area not generally visible from any road or from the adjoining residences.

7. It shall be the responsibility of each property owner to prevent the development of any unclean, unsightly, or unkempt condition of any structure or on the ground of his lot or lots, which condition would mar or substantially decrease the beauty of the neighborhood as a whole or of any specific area. The exterior of all structures and all landscaping incidental thereto on any individual lot must be completed within one (1) year after the commencement of construction thereof, except where natural disaster such as strikes, fires, national emergencies, or natural calamity make completion impossible or would result in great hardship to the owner or builder.

8. Exterior clotheslines, if utilized, shall be located in an area not generally visible from the road or from adjoining residences.

9. No residence, building, or any other structure shall be built or maintained within ten (10) feet from any property line or road right of way line.

10. The Developer reserves unto themselves, their successors and assigns, a perpetual alienable and releasable easement and right on, over, and under the ground to erect, maintain, and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the transmission and discharge of electricity, telephone, telegraph, gas, or water.

11. It shall be the responsibility of each lot owner to maintain 12" or larger drain tile, at their expense, on any portion of his lot where a driveway crosses or any other thing obstructs a drainage ditch. All soil disturbing activities, including without limitation grading house sites, constructing driveways, and landscaping, regardless of their intent, must conform to prevailing laws and regulations regarding erosion control, both during construction and afterward, and must not impair the erosion control measures previously installed by the Declarant.

12. It shall be the responsibility of the lot owner to provide adequate parking space for motor vehicles on his or her lot. Parking on the subdivision roads or within the rights of way thereof is prohibited. All parking areas and driveways on all lots must be surfaced completely, immediately upon installation, and therefore maintained, with gravel, concrete, asphalt, or other appropriate paving material. Declarant expressly reserves unto itself, its successors and assigns, the right to add additional land to the Subdivision, and if the Declarant does add additional lands to the Subdivision then the definitions contained hereinabove of the "Subdivision" may be deemed to include the lands so added (at the Declarant's discretion) and the definition contained hereinabove of "Lot" may include all Lots created within said additional lands (at the Declarant's discretion). The right herein reserved to the Declarant, its successors and assigns, to add additional lands to the Subdivision may be exercised by the Declarant any number of times. Further, Declarant specifically reserves the right unto itself, its successors and assigns, the right to burden the Subdivision roads, easements and rights of way, by granting easements and rights of way over the same to serve and to be appurtenant to lands added to the Subdivision and lands lying outside the boundaries of the Subdivision. It is specifically the intent of the Declarant to reserve unto itself, its successors and assigns, the right to establish additional easements and rights of way over the Subdivision roads to serve any and all lands later added to the Subdivision and any and all Lots created therein, and to serve lands lying outside the boundaries of the Subdivision.

13. Declarant reserves unto itself, its successors and assigns, and declares for the benefit of the Association, its successors and assigns, a perpetual easement for the erection, maintenance and repair of Subdivision signs upon any Lot which adjoins any public road, and within each Subdivision easement, which easement shall include the right to erect, maintain and repair walls and lighting at the site of the sign and to landscape the area in the vicinity of the sign.

14. The Declarant expressly reserves unto itself, its successors and assigns, an easement which may but need not be assigned to the Association, for the purpose of going upon each Lot for the cutting and maintaining views and vistas in the interest of shared enjoyment of the distant scenes by adjacent and nearby Lot Owners. It is understood, however, that Declarant, its successors and assigns, shall only maintain and cut views and vistas to enhance the enjoyment of Owners and occupants of dwellings located upon adjacent or nearby Lots, and that said cutting maintaining of views and vistas will be done selectively with the purpose of obtaining an artistic result with every effort made to preserve specimen trees and plants. Nothing herein shall be construed to affirmatively require Declarant, its successors or assigns, to cut or maintain views and vistas. The cost incurred by Declarant, its successors and assigns, in cutting and maintaining views and vistas pursuant to this paragraph shall be borne by the Lot Owners who are benefited thereby, provided that no such Lot Owner shall be required to pay for the cutting and maintaining of views and vistas unless he request that same be done or consents to the same.

15. Declarant reserves an easement for all utility lines, including without limitation, electricity, telephone and cable television 20 feet wide along all boundary lines and all access road easements. Declarant has installed primary electrical service lines through the Subdivision so that each Lot has electrical service available to a boundary of the Lot except Lot 10, the owner of which shall have the right to install the continuation of such

lines to Lot 10. It shall be the responsibility of each Lot Owner to pay for the installation of secondary electrical service lines and facilities leading from the primary electrical lines and facilities located at the Lot boundary through the Lot to the structures and improvements located upon the Lot. It shall be the obligation of each Lot Owner to provide for, arrange and permit the installation of such secondary electrical lines and facilities upon his or her Lot, and to submit such applications and other papers, enter into such agreements, and pay such fees and charges as may be necessary to effect such installation. When a Lot Owner has had electrical service installed upon his or her Lot, such Lot Owner must always thereafter pay all electrical bills and charges coming due with respect thereto and must never allow such electrical service to be cut off or disconnected for any reason. In order to facilitate the installation of electrical service to his or her Lot, each Lot Owner, by acceptance of the deed to his or her Lot, whether from the Declarant or from a prior Lot Owner, designates and appoints Declarant as his or her attorney in fact, and agrees to sign such further documentation as may be necessary to effect such designation and appointment, for the purpose of signing and submitting such applications, agreements and other documentation as may be necessary. Any electrical power utility company may rely upon this designation and appointment for the purpose of installing secondary electrical service upon a Lot when the applications, agreements and other documents necessary therefore have been signed in the Lot Owners name by Declarant as their attorney in fact. All secondary electrical lines installed upon any lot must be installed underground. Primary electrical lines, which the Declarant has the responsibility to install, shall generally be installed underground, but may be installed overhead when deemed appropriate in the discretion of the Declarant.

16. Only the Declarant shall have the authority to name or change the name of roads in the Subdivision.

17. Declarant reserves an easement for water lines and ancillary equipment 20 feet wide along all boundary lines and all access road easements. The Declarant has created a water system, facilities and amenities within the Subdivision. The Declarant shall have the right, but not the obligation, to assign the obligation for the maintenance and upkeep of the same to the association. It shall be the responsibility of each Lot Owner to pay for the installation of, and connection to, the Subdivision water system leading from the primary water system located at the Lot boundary except Lot 10, the owner of which shall have the right to install the continuation of such lines to Lot 10; through the Lot to the structures and improvements located upon the Lot. It shall be the obligation of each Lot Owner to provide for, arrange and permit the installation of such water system connections and facilities upon his or her Lot, and to submit such applications and other papers, enter into such agreements, and pay such fees and charges as may be necessary to effect such installation. The Declarant shall have the right to convey real property to the Association for use as common areas for the Association and all Lot Owners. The Association shall have as it's primary function the obligation to maintain and repair the roadways and water system in the Subdivision after their construction by the Declarant and to maintain, repair, and take other necessary actions with respect to such water systems, other systems, facilities and amenities and common areas in the Subdivision as are installed by the Declarant and assigned to the Association or as are conveyed by the Declarant to the Association. All such roadways, water systems, and other systems, facilities and amenities, the maintenance and repair responsibility of which is that of the

Association, shall be maintained and repaired up to a standard at least as good as the same are at the time the Association commences having responsibility for the same. Each Lot shall be equally assessed for the costs of the maintenance, repair and upkeep of the roadways maintained by the Association. Each Lot Owner which has the rights to any water system or other systems, facility amenities, or common areas, which the Association has the obligation to maintain and repair shall be assessed equally for the maintenance and repair of the same. The Association shall have such other and further powers as may be adopted and set forth in it's by-laws as may now be in existence or may be adopted in the future, provided the Association may not supersede it's limitation as to the number of Lots for which it can assess the Declarant. The responsibility for sharing the expense of operating and maintaining the water system shall be shared equally by all Lot Owners connected to the system.

18. If any person damages the Subdivision roads, utility lines or common properties for any reason, that person shall be responsible for paying to repair the same to the original condition. Each Lot Owner shall, before beginning of construction for a dwelling on any Lot, pay to the Association for the maintenance and repair of the Subdivision roads the sum of \$400.00, which shall be applied directly to the cost or maintenance and repair of said Subdivision roads. If construction on any Lot causes damage to the Subdivision roads in excess of \$400.00, the Owner of such Lot shall pay to the Association such amount as is necessary to repair the road or utility lines to its original condition. If no damage to the subdivision roads, water system, utility lines or common properties are incurred, then the \$400 collected from the Lot Owner shall be refunded to the lot owner.

19. The Declarant shall not have any responsibility to maintain the Subdivision roads except in the manner of any other Lot Owner.

20. In order to minimize light pollution and to preserve the night views in the subdivision, outside lights may not be installed more than fifteen (15) feet above ground level and must be turned off when not in use for an outdoor activity. The use of motion detectors to activate lights for security purposed is permitted.

21. In addition to the provisions hereinafter made for maintenance of the roadways within the subdivision, each property owner shall, by acceptance of his deed for property within the subdivision, agree, at his expense, to repair any damage to the roadway, or to provide access to said lands or the ditches when such damage is caused by him or by his agents Or employees other than through normal use of said roadways.

22. There shall be a yearly assessment of Seventy Five (\$75.00) dollars for road and water system maintenance, said assessment to be due and payable on the first day of each year after the purchase of the lot. After five (5) lots have been sold, the property Owners will form "Corkill Mountain Estates Property Owners Association." The Association will be responsible for making and collecting all assessments, and for maintaining the roads and water system in the subdivision. The Association will assess owners of vacant lots the same amount of the assessments of owners of lots upon which construction has begun or completed. Any assessment not paid when due shall bear interest at the rate of eighteen (18%) percent per annum from the due date. The yearly assessment shall increase by 5% each year. Declarant shall not be responsible for any assessments in connection with property held by Declarant.

23. By their acceptance of a deed, all land owners within the subdivision agree for themselves, their heirs, successors, and assigns, that as the owners of said property, they will become a member of the Corkill Mountain Estates Property Owners Association at such time as such association shall be formed, and shall abide by all rules and By-Laws of the Association.

24. It is understood and agreed that the roadways and water system within the subdivision shall be for the common use of the Developer, their heirs, successors and assigns, and all lot owners within the subdivision. The Developer has constructed the roadways and water system, and responsibility for maintenance of the roads shall be that of all lot owners and the Corkill Mountain Estates Property Owners Association. The streets, roadways, and access roads within the said property shall be maintained in travelable condition sufficient for all types of weather, provided, however, that this standard of maintenance shall not be construed to require removal of snow. The determination of the time for performing maintenance and all actual maintenance of said roads shall be the responsibility of the lot Owners and the Corkill Mountain Property Owners Association. Each lot owner shall be responsible for paying to the Developer at first and then to the Association, at **such time as it is formed**, his or her proportionate share of the cost of maintenance and upkeep of said roadways and water system. The proportionate share shall be computed on the basis of one share per lot within the subdivision, provided that if a lot owner owns two or more adjoining lots, it shall be considered One lot, provided there is only one home on the two or more lots. Each lot owner's share of the cost of maintenance and upkeep of said roadways and water system shall be due on Or before the date or dates fixed by the Homeowner's Association.

25. Each lot owner's proportionate share of the cost of maintenance, upkeep, and repair of the roadways and water system as hereinabove set forth, and/or the cost of abatement and removal of any structure or other property or thing in violation of these restrictions, shall be and remain a lien upon the respective parcels or lots to which the same is applicable, until the same shall have been paid in full, which said lien, shall, however, be subordinate and which is by the terms hereof expressly subordinated to the lien obtained by any bank, building and loan or savings and loan association, and any other legitimate banking or lending institution, by the lending of money for which said parcel or lot is accepted as security. Should any lot or parcel owner fail to pay any indebtedness or assessment hereby established within thirty (30) days after written notice thereof, then and in that event, the same may be delivered to an attorney for collection, in which event such lot or parcel owner shall be responsible for the payment of reasonable attorney fees required to enforce the collection thereof. Any assessment not paid when due shall bear interest at the rate of eighteen (18%) percent per annum from the due date.

26. No lot owner shall be permitted to construct or extend a road or driveway or grant any person or identity the right to construct a road or driveway leading from any lot within the Corkill Mountain Estates Subdivision to any other property not within the Corkill Mountain Estates Subdivision.

27. No livestock, poultry, or other animals shall be kept on said premises, excepting those maintained solely as household pets. And excepting ducks or similar type fowl maintained On any pond within the Corkill Mountain Estates Subdivision, provided that said ducks or fowl do not become a nuisance.

28. Household pets shall be kept inside the residence at night and under such restraints so as not to become a nuisance or a threat to other property owners, or their property, or to wildlife in the area when outside.

29. Animals, such as dogs (but not limited to only dogs), will not be permitted to roam free off of the property owner's legal property boundaries, nor make such noise, like barking, to the point that it becomes noxious or offensive to other residence. If a property owner complains of such noxious or offensive behavior, the owner of such animal will be required to relocate the noxious or offensive animal to a location such that the noxious or offensive behavior is no longer considered noxious or offensive.

30. No septic tank or sewage disposal system or drainage shall be located on any lot at any location that would contaminate in any way the water supply for any other portion of land of the Developer or any lot owner, and all septic tanks and/or sewage disposal systems and drainage systems shall be constructed, installed and maintained in accordance with the Federal laws and the laws of North Carolina, and in particular, the Public Health Laws and Regulations. No sewage disposal system or well shall be located on a lot which would make an adjoining lot unsuitable for a sewage disposal system.

31. Invalidation of any one of these covenants, conditions, or restrictions by a judgment or order of court of competent jurisdiction or by requirements of state or federal law shall in no way affect the validity of any of the other provisions, and said provisions shall remain in full force and effect.

32. These are covenants which shall run with the land and shall be binding upon all parties and all persons claiming under them. These restrictions shall remain on the property unless specifically terminated by a vote of 75% of owners of lots subject to these restrictions after the Declarant sells all of their property in the subdivision.

33. In the event of violation of any of these restrictive covenants by any lot owner or agent of such owner, the owner of any such lot subject to these restrictions shall have the right to take such legal or equitable action as necessary to compel compliance or to terminate or enjoin any violation. Additionally, the Declarant shall have the same right of enforcement and shall have the further right to enter upon the premises where such violation exists to abate or remove the same if after ninety (90) days written notice to the lot owner, the violation has not been corrected. Any such entry by the Declarant shall not be deemed a trespass. The failure of the Declarant, the homeowner's association, or their successors, to enforce any right, reservation, restriction, or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so subsequently as to the same breach, or as to any breach occurring prior or subsequent thereto, and shall not bar or affect its later enforcement.

34. This Declaration may be amended by Declarant as long as Declarant owns any property subject hereto and after Declarant sells the last of its property it may be amended upon the approval of the owners of seventy-five (75%) percent of the lots located on the property. The Declarant and all lots owned by the Declarant shall be exempt from assessments until transferred by deed to new owners.

IN WITNESS WHEREOF. the Declarant has caused these covenants and restrictions to be signed in their names, have set their hands and seals, this the day and year first above written.

_____(SEAL)
Patrick W. Corkill

_____(SEAL)
Teresa K. Corkill

State of _____, County of _____
I, _____, a notary Public of the aforesaid County and State
hereby certify that Patrick W. Corkill and wife, Teresa K. Corkill, who is personally
known to me or provided _____ as identification,
personally appeared before me this day and acknowledged the due execution of the
foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial Seal, this _____.

Notary Public Seal Stamp
My Commission Expires: _____