

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
"TOCCOA PRESERVE"**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and published this 20th day of October, 2004, by APPALACHIAN RIVER PROPERTIES, LLC, hereinafter referred to as Developer, of Fannin County, Georgia.

WITNESSETH:

THAT WHEREAS, said Developer is the owner of the development generally known in the community as "Toccoa Preserve", and being a development of all those lots, tracts or parcels of land situate, lying and being in the 8th District and the 2nd Section of Fannin County, Georgia and being part of Land Lot No. 171 and being shown on a plat of survey dated October 11, 2004, prepared by Richard E. Nutt, G.R.L.S. No. 1797, and recorded in Plat Book, page 339, in the office of the Clerk of Superior Court, Fannin County, Georgia.

WHEREAS, it is to the interest, benefit and advantage of the Developer, and to each and every person who shall hereafter purchase any lot in said development that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared to be covenants running with the land; and

WHEREAS, the Developer deems it desirable to create a property owners association to enforce and administer the Declaration and to insure the enjoyment of the lots by the owners thereof;

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by the Developer, and each and every subsequent owner of any of the lots in said development, said Developer does hereby set up, establish, promulgate and declare the following protective covenants to apply to all of the said lots and to all persons owning said lots, or any of them, hereafter; these protective covenants shall become effective immediately and run with the land and shall be binding on all persons claiming under and through the Developer, to wit:

1. **SUBDIVIDING:** after the conveyance of a lot or tract by the developer, no lot or tract shall be subdivided.
2. **SEWAGE DISPOSAL:** A septic tank and proper drain field, in accordance with the standards of the Health Department of the State of Georgia, will be used for sewage disposal for houses located on said subdivision lots.
3. **ARCHITECTURAL DESIGN:** The developer reserves the right to require a complete set of house plans, including front elevation plans. All plans shall be submitted to the Developer for approval prior to commencement of construction.
4. **TEMPORARY STRUCTURES:** No trailers, motor homes, campers, mobile, modular, or prefab homes of any type, or homes constructed in part or in whole off said lot shall be used or located on any lot at any time as a dwelling either temporarily or permanently. No prefabricated outbuildings shall be allowed on any lot. No structure of a temporary nature shall be used as a residence either temporarily or permanently (including but not limited to trailers, basements, tents, shacks, garages, or barns).
5. **LAND USE:** Lots shall be used for single family residential purposes only. No trade, business or commercial activity of any type, no religious house of worship and no school shall be maintained on any lot; however, this shall not prevent any homeowner from home schooling their own children. Cabin rentals are permitted incidental to owner use.
6. **DWELLING SIZE:** Each single family dwelling shall be constructed with a minimum of 1400 square feet of heated living space, exclusive of any carport, garage, basement, deck, patio and open porches. The ground level floor shall have a minimum of 1000 square feet of heated living space. Out buildings such as garages, barns or other buildings may be constructed if they are of the same quality workmanship and materials as the permanent dwelling.
7. **DWELLING TYPE:** All homes shall be built on-site and shall be of typical frame or log construction.

8. **EXTERIOR FINISH:** The exterior finish of all buildings shall be of logs, log siding, shake, or similar material. Concrete block construction is prohibited on any lot; however, concrete block may be used in the foundations and chimneys of houses erected on said lots. All concrete and concrete block must be covered by rock or stone veneer. Any fencing shall be constructed of wood and with the finished side out. No chain link fencing shall be allowed. It is the intent and purpose of this paragraph to insure that all dwellings shall blend with the environment and be aesthetically pleasing.
9. **CONSTRUCTION:** All construction should comply with all local and state codes and be of reasonable architectural design. The exterior of all structures to be constructed on any of said lots shall be completed within eight (8) months from the date that construction begins and total construction must be completed within twelve (12) months. Any damage to roads, adjacent properties or other common property shall be the responsibility of the owner and builder. The construction site must be kept clean of debris and waste must be disposed of properly.
10. **EASEMENTS:** Easements for the installation and maintenance of roads and utilities are hereby reserved whereby buried water pipes, power lines, telephone lines, and cable lines with all essential clearing may be installed along the subdivision roads and lot lines. No trees or shrubs shall be planted within the right-of-ways and road easement areas. All claims for damages, if any, arising out of the construction, maintenance, and repair of utilities or on account of temporary inconveniences caused thereby against the owners or any of their agents is hereby waived by the lot owner.
11. **UTILITIES:** All utility lines for power, water, telephone and cable shall be placed underground unless impossible. No satellite dish larger than 24 inches shall be permitted.
12. **SET BACKS:** All structures shall be set back from property lines as set forth by any local, county or state ordinances or statutes in effect at the time of construction. Set backs shall not be less than fifteen (15) feet.
13. **SIGNS ON LOTS:** No signs of any type shall be displayed on any lot with the exception of one temporary sign offering the property for sale and any sign used for reasonable address identification. "For sale" signs shall not be any larger than 36" x 36". An exception shall be made for the developer for the placement of signs advertising the subdivision. All signs shall be professionally lettered and neatly installed.
14. **SIGNS IN COMMON AREAS:** No signs of any kind may be placed in the common areas with the exception of one temporary sign offering the property for sale. "For sale" signs shall not be any larger than 36" x 36" and shall be professionally lettered and neatly installed. Any sign displayed in a common area, must be within the area designated for sign posting. This will include an area near the pavilion, and near the entrance on Ada Road, and on the upstream common lot. "For Rent" signs are not permitted in the common areas.
 - a. Listing Agents may not post more than one sign near the Rail Road, nor more than one sign near the entrance sign on Ada Road, regardless of how many listings they have in the subdivision. "For Sale" signs by Realtors may only stand while there is an active listing in the subdivision. "Under Contract", "Sold" or similar signs are not permitted on the common property. "For Sale" signs must be removed from the common property if there is no property accepting offers.
15. **NUISANCES:** No noxious or offensive activities shall be permitted or carried on upon any lot, nor shall anything be done thereof which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept on any lot that will emit foul or obnoxious odors. No offensive, noisy or illegal activity shall be suffered or permitted upon any lot, nor shall any lot be used for any illegal purpose. No operation or use of all terrain vehicles, dirt bikes, motorcycles or any similar type vehicles with an externally mounted

engine shall be permitted within the subdivision except for entry and exit. All such vehicles shall be properly muffled so as not to disturb the neighborhood.

16. **OUTDOOR LIGHTING:** All outdoor lighting shall be so shaded and directed such that the light there from is directed to fall only on the same premises where the light source is located.
17. **CLOTHES LINES:** No garments, laundry, rugs, or other articles may be aired or dried on any lot.
18. **GARBAGE:** No trash, garbage or other waste material or refuse shall be placed or stored on any lot except in covered sanitary containers. All such containers must be stored inside the home or an outbuilding.
19. **LOT MAINTENANCE:** Each lot shall be kept and maintained completely free of any junk, trash and garbage, (including old vehicles and discarded appliances). Trash and garbage must be properly disposed of in containers designed for that purpose. Each lot and the improvements constructed thereon shall be maintained in a good, safe and attractive condition, and grass must be mowed on a regular basis.
20. **STORAGE:** No inoperative cars, motorcycles, trucks, or any other type vehicle shall be allowed to remain either on or adjacent to any lot for a period in excess of 7 days; provided however, that this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no major repair performed on any motor vehicle on or adjacent to any lot in the subdivision. All vehicles shall have current license plates.
21. **TRAILERS AND COMMERCIAL VEHICLES:** No parking of any travel trailer, or motor home (except in the case of a travel trailer or motor home, said travel trailer or motor home is housed in a completely enclosed garage), truck (excluding a pickup truck), camper, tent or other similar vehicle, outbuilding, or temporary structure shall be placed on the property for a period exceeding 48 hours. No industrial, commercial, or farm equipment or vehicles, including without limitation dump trucks, moving vans, step vans, buses, and lowboy trailer, shall be allowed to park or remain on the property, except for so long as necessary for use in connection with ongoing construction.
22. **ESCAVATION:** Except during the construction of a permanent improvement thereon, no owner shall excavate or extract earth from any lot for any business or commercial purpose or otherwise. No elevation changes shall be permitted which materially affect the surface grade of surrounding lots.
23. **LANDSCAPING:** No trees more than twelve (12) inches in diameter shall be removed from any lot except for dead trees, those endangering the property, those necessary to clear an area for construction of a house, septic tank and drain field, driveway, garden or garage or those necessary for reasonable landscaping, including creating a view. In no event shall more than one-half of the trees located on a lot originally be removed.
24. **TEMPORARY POWER:** No structure shall draw electrical power from a temporary pole except for the construction of a permanent home.
25. **UTILITIES:** All utilities-water, electricity, telephone, and television cable shall be run underground in accordance with local codes between the source near the road and the permanent dwelling.
26. **FUEL TANKS:** Tanks used to store liquid propane (LP gas), heating oil, or other fuel must be fully concealed from view. They may be placed underground or inside an outbuilding.
27. **RIGHT OF WAY:** No structure of any type will be placed upon those portions of the property reserved for public utility easements and for a public (traffic) roadway for ingress and egress, nor will the roadway be obstructed, blocked or modified in any way not clearly in the public interest.

28. **ANIMALS:** No animals, livestock or poultry shall be raised, bred or maintained on any subdivision lot except that dogs, cats, birds, or other ordinary household pets may be kept in a reasonable number, provided that they are not kept, bred or maintained for any commercial purposes. Pets must be kept on leashes and under control outside of the individual lots or inside a fence within a lot. Pens must comply with the building setbacks. Pets shall not be allowed to annoy neighbors. Pets that are a threat or nuisance to other owners shall not be permitted. Pets must not pose a threat to, or annoy hikers or bikers on marked hiking trails within the subdivision.
29. **HUNTING:** No hunting or target practice shall be permitted with the development. There shall be no discharge of a firearm.
30. **PROPERTY OWNERS' ASSOCIATION (POA):** Each and every lot owner subject to this Declaration shall automatically, and by reason of such ownership, become a member of the property owners' association to be formed and shall be subject to its valid rules and regulations. Said association may or may not be organized as a corporate entity, however, each lot owner shall have one vote per lot in all transactions and business of the association. The association shall also have the authority to make the assessments and to place a lien against any lot owner who fails to pay an assessment when due. Any notice of lien shall be filed in the office of the Clerk of Superior Court of Fannin County, Georgia.
31. **ROADS:** Right-of-way easements forty (40) feet in width are served over and across the roads which traverse the subdivision as shown on the Plat for the purpose of ingress and egress for all lot owners. No new roads shall be constructed on any lot for the purpose of connecting to roads outside the development. Road maintenance shall be shared equally by all lot owners through the property owners association with each lot owner paying an annual fee that shall be deposited into an escrow account established for the maintenance of the roads and common areas. The Developer shall maintain the subdivision roads until 75% of the development is sold, however, each owner shall pay the sum of \$200 per year per lot for the road maintenance. Said sum shall be prorated at the time of the formation of the POA and shall be due and payable on or before January 1st of each year thereafter. In the future the POA may elect to turn the road over to Fannin County to maintain. The sum may be adjusted to cover required expenses.
32. **COMMON AREAS:** The common area maintenance will be administered by the POA. The Developer shall maintain the common areas until 75% of the development is sold, however, each owner shall pay the sum of \$100 per year per lot for the common area maintenance. Said sum shall be prorated at the time of the formation of the POA and shall be due and payable on or before January 1st of each year thereafter. This sum may be adjusted to cover required expenses.

These covenants and restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of 20 years and cannot be amended or changed in any way unless an instrument is signed by 75% of all of the property owners in said development. At the end of the 20 years, said covenants and restrictions shall be automatically extended for an additional ten years unless an instrument changing said covenants in whole or in part is signed by a majority of the then recorded owners and recorded in the Fannin County deed records.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate said covenants either to restraining violation or to recover damages.

Each covenant contained herein is severable and distinct from each other and in its application to all or any portion of the premises, and the invalidity or unenforceability of any of the other covenants contained herein. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the said Developer has hereunto set its hand and seal, the day and year first above written.

Signed, sealed and delivered

Appalachian River Properties, LLC

In the presence of :

_____ (seal)

Notary Public
