



## NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

*Return recorded document to:  
Cary D. Cox, P.C.  
P.O. Box 748  
Blairsville, GA 30512*

**OLD BIRCH BEND**

STATE OF GEORGIA  
COUNTY OF UNION

**DECLARATION OF RESTRICTIONS, LIMITATIONS AND COVENANTS  
RUNNING WITH THE LAND**

Whereas, the holders of the legal title to the below listed subdivision, know as Old Birch Bend, said tract or parcel of land lying and being described as follows:

**All that tract or parcel of land lying and being in Land Lots 322 & 323, 9<sup>th</sup> District, 1<sup>st</sup> Section, Union County, Georgia, and being Lots One (1) through Twenty-one (21) as shown on a plat of survey by Rochester & Associates, Inc. RS #2349 dated 05/04/04, revised 10/30/04, as recorded in Plat Book 55, Page 198-199 Union County records, which description is incorporated herein by reference and made a part hereof.**

The purpose of the following restrictions and covenants is to ensure the use of said realty by the owners, to prevent the impairment of the attractiveness of said realty, and to maintain the desired character of the community, and thereby to secure to each present or future owner the full benefit and enjoyment of their property. The reservations and restrictive covenants are to run with the land and shall be binding upon all parties and persons owning lots in Old Birch Bend.

If the owners of such lots or any of their heirs, successors or assigns, shall violate and of the covenants hereinafter set out, it shall be lawful for any other person owning real property situated in said subdivision to prosecute any proceeding at law or in equity against the person or persons violating any of such covenants and either to prevent him from doing so or to recover damages for such violations, or both.

Each covenant contained herein is severable and distinct from each other and in its application to

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all or any portion of the premises, and the invalidity or unenforceability of any covenant contained herein as to any portion of the premises shall not affect the validity or enforceability of any of the other covenants contained herein. Invalidation of any one of these covenants by judgement or court shall in no wise affect any of the other provisions, which shall remain in full force and effect.

These covenants and any amendments thereto, shall apply to and govern the realty and its present or future parcels, common roads and common area and the use thereof. All covenants herein stated and any amendments or additions thereto, shall run with and shall be binding upon all persons or entities claiming under them.

1. **LAND USE.** No lot after being conveyed by the developer may be subdivided without developers and Union County Health Department expressed approval. All lots are for single family residential purposes only. Only such residence shall be erected on any one lot, provided however that the owner of any lot may erect a garage for use in connection with such a residence. No lot dwelling or structure shall be used for commercial activity or business with the exception of a private home office. A private home office is defined as a one room, completely housed in the residence, office which supplements a persons main office. The home office shall not be solely and exclusively the main office for a business. No commercial vehicles (four ton or greater - see paragraph 12 below), trailers, lawn mowers for a lawn service, or the like may be parked at a residence in connection with the home office.
2. **SETBACKS.** All setbacks are shown on recorded plat of Old Birch Bend and are to be constructed to be a part of the Restrictions and Covenants, said plat and setbacks are incorporated herein by reference as if fully set forth.
3. **CONSTRUCTION.** When house construction begins, work must be pursued diligently and exterior must be completed within nine (9) months from start thereof and outside landscaping must be completed within one (1) year from the start thereof. All homeowners shall be held responsible for the acts of their employees, sub-contractors, suppliers and other persons or parties involved in construction or alteration of a homesite. In this regard, a homeowner shall be responsible for any damage to roads and other common property. Builder/owner must ensure that the construction site is kept clean and free of debris and waste materials, and that stockpiles or unused materials are kept in neat and orderly fashion.
4. **HOUSE SIZE.** All houses shall be constructed with no less than seventeen hundred (1700) square feet of heated living space on one floor, or twenty-two hundred (2200) square feet on two floors, with 1500 square feet on main floor, exclusive of any carport, garage, basement, deck, patio or porches.
5. **BUILDING MATERIALS.** Primary residential building material for home construction shall be brick, vinyl, stucco or exterior wood material. No concrete block construction (with the exception of foundations), metal buildings, mobile homes, double wide mobile homes, manufactured homes, round or octagon shape or relocated homes will be allowed.

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Exposed concrete block or poured concrete foundations and site retaining walls must be covered with stone, brick, siding or stucco to complement the primary building materials.

6. **ROOFING.** Primary residential roofing materials must be cedar shakes, shingles, fiberglass or asphalt shingles in colors and texture which complement the balance of the other colors and materials used unless approved otherwise. Primary colors for siding, stucco and trim must be confined to lighter earth tones and white, which are compatible with the natural environment. Architectural metal with baked on enamel shall be allowed. All primary roofs shall be a minimum of 7-12 pitch.
7. **DRAINAGE:** No drainage ditches, cuts, swales, streams, impoundments, ponds or lakes, no mounds, knobs, dams, or hills and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be created, destroyed, altered or modified without the prior written consent of the Developer until seventy-five (75%) percent of lots are sold, whether on private or common area. Special attention shall be given to prior site surface drainage so that surface waters will not interfere with surrounding homesite and natural drainage flows. Paved areas shall be designed to allow surface water to drain naturally and not to allow water to collect or stand. All driveways must be asphalt or concrete and completed within one (1) year from the starting date of home construction.
8. **VISUAL EFFECTS.** Only wood or vinyl fences will be allowed in front and side of residence. In the rear, only wood, vinyl or chain link fences will be allowed. No farm type wire fences will be allowed with the exception of existing fence. Compressors for central air conditioning units and play equipment must be located where it will have minimum visual impact on adjacent properties.
9. **UTILITIES.** All electrical and other utility lines shall be placed underground and all water supply and sewage disposal facilities shall comply with the applicable governmental codes. No satellite dishes over a thirty-six (36) inch diameter will be allowed on any lot and must be placed out of sight if subdivision roads.
10. **TREES AND SHRUBS.** No more than fifty percent (50%) of existing trees over five (5) inches in diameter shall be removed from the property after being conveyed by the developer. Any homesite, which has been altered from its natural state, shall be landscaped. All shrubs, trees, grass and plantings of every kind shall be kept maintained, properly cultivated and free of trash and other unsightly material. Landscaping shall be completed subject to and in accordance with paragraph three (3) above..
11. **EASEMENTS.** Developer, for the benefit of developer and developer's successors and assign, reserve the absolute exclusive, continuing and nonexclusive right and easement to construct, erect, place, repair, maintain and replace from time to time along any present or future constructed common roadway, any utility lines, pipes, conduits, devices, implements or related components, fixtures, apparatuses and assemblages that are reasonable, appropriate and useful in furnishing and satisfying the residential utility uses and needs of the subject realty and its parcels, including but not limited to the following

utility purposes and services; electricity, water, sewer, telephone, cable, and other reasonable and ordinary utility right purposes and uses. This reservation shall include the right of developer to grant and convey reasonably necessary and appropriate licenses, permits and easements to other third persons or entities in order to accomplish the intents and purposes of this provision. Nothing herein shall obligate developer to provide or furnish any utility service. The developer further reserves the right to extend either the subdivision roads, grant easements for extending subdivision roads, or to extend or grant easements for the extension of the utilities as herein described.

12. **VEHICLES.** No motorcycles or other vehicles with external engines shall be permitted to ride along the streets of said subdivision except for the entry and exit from the area. Motorcycles and vehicles shall be properly muffled and usable by Georgia Department of Motor Vehicle standards. All such vehicles shall be properly muffled so as not to disturb the neighborhood. Developer shall be the sole arbiter of whether or not a vehicle is properly muffled until seventy-five (75%) percent of lots are sold. The parking of buses or trucks, rated higher than four tons, shall not be permitted. No motor homes or RV units shall be parked temporarily or permanently on any subdivision road unless garaged. Racing cars, whether trailered or not shall be garaged and kept out of sight of the subdivision roads..
13. **APPEARANCE.** No lot shall be used in whole or in part for any illegal activity nor for the storage of any property or thing that will cause any lot to appear in any unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance be kept upon any lot that will emit foul or noxious odors. No lot owner or lot occupant shall conduct any activity that will disturb the peace, comfort or serenity of the occupants of surrounding property. No wrecked or untagged motor vehicle, utility trailer, nor junk, nor household appliance shall be kept or stored in plain view of subdivision roads.
14. **SIGNAGE.** No signs of any type shall be displayed to public view on any portion of said property except one sign of not more than 24 inches by 24 inches advertising property for sale or a temporary builders sign, or such permits as required by law. All said signs shall be professionally lettered and neatly installed. Developer reserves the right to erect entrance signs.
15. **ACCESS.** No lot shall be accessed other than by the roads inside the subdivision. No road shall be built to access any adjoining property without written permission from the Developer. Developer reserves the right to access any adjoining property now or hereafter acquired by the developer by the subdivision roads.
16. **ANIMALS.** No animals, birds, or fowls shall be kept or maintained on any part of the property except ordinary household pets (e.g. dogs, cats and pet birds- not including chickens) which may be kept thereon in reasonable number as pets for the pleasure and use of the occupants. No animal or animals shall be kept on any size lot for any commercial purpose. Dogs, cats and pet birds may not disturb other neighbors.
17. **LOT UPKEEP.** All lots, whether vacant or occupied, shall be maintained or will become subject to mowing by the developer. A cost of maintaining lots, after a certified letter by

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UNION COUNTY, GEORGIA  
 FILED & RECORDED MARCH 9  
 20 05 AT 2:00 P, M.  
 RECORDED IN BOOK 569 PAGE 500-504  
Allen Corley S.C.C.

developer to the lot owner regarding failure to maintain the upkeep, shall be charged. The charge for upkeep shall be equal to the cost paid by developer and an administration fee of 10% unless otherwise agreed upon by lot owners and developers. The charge for lot upkeep by developer shall run for a period of two (2) years starting from the date of recording the plat cited above.

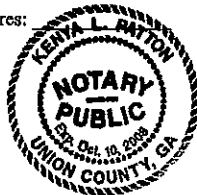
- 18. **ROADS.** The roads in Old Birch Bend shall be constructed to meet County Road specifications, including paving. The turning over of the subdivision roads to the County shall be solely and exclusively in the developer's discretion. If the roads are not deeded to the County the roads shall become property and responsibility of lot owners upon sale of seventy-five (75%) percent of subdivision lots.
- 19. **RESTRICTIONS TIME PERIOD.** The covenants, restrictions, easements, reservations, terms and conditions contained in this declaration, shall run with the land and shall be binding upon all lot owners and all persons claiming under them for a period of twenty (20) years from the date hereof, provided, however, that the developer retains the absolute right to amend this declaration, as it may deem necessary, during a period of two (2) years from the date of the recording hereof upon the records of the Clerk of Union County Superior Court, and all such amendments shall be binding upon all lot owners. Provided further, these covenants may be amended at any time by the written agreement of the owners of at least three-quarters (3/4ths) of the total number of lots. All such amendment(s) shall apply equally to all lots within the subdivision and no such amendment(s) shall place any further obligation(s) upon developer without his written consent.

In witness whereof, the owners hereby sat its hand and affixes its seal, this, the 8<sup>th</sup> day of March, 2005.

Scott Corn  
 SCOTT CORN  
Sharon Corn  
 SHARON CORN

Debra Paalstin  
 Witness

[Signature]  
 Notary Public  
 My Commission Expires:



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