

**AMENDMENT OF DECLARATION OF RESTRICTIONS  
FOR MOUNTAIN CREEK ESTATES**

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File #04-232  
STATE OF GEORGIA  
COUNTY OF RABUN

GEORGIA, RABUN COUNTY  
FILED FOR RECORD APRIL 25  
20 05 AT 5 O'CLOCK P  
RECORDED APRIL 29, 20 05  
IN BOOK NO. Z-27 PAGE 675

*[Signature]* CLERK

WHEREAS, the undersigned, who executed a declaration of protective covenants, conditions & restrictions for Mountain Creek Estates on September 8, 2003, which is recorded in the office of the clerk of Rabun Superior Court in Deed Book C-25, pag 562; and executed an amendment of declaration of restrictions on March 10, 2004, which is recorded in the office of the clerk of the Rabun Superior Court in Deed Book Y-25, page 641; and

WHEREAS, the undersigned is desirous of amending said declaration of restrictions following a majority vote by the Mountain Creek homeowner's association on May 31, 2004,

NOW THEREFORE, in consideration of the sum of one dollar and 00/100 (\$1.00) and other good and valuable consideration, the undersigned hereby amends the September 8, 2003 restrictive covenants and **replaces** the March 10, 2004 amendment to said restrictive covenants as follows:

1. Paragraphs 11 and 12 of the September 8, 2003 declaration of restrictions are hereby deleted and the following paragraphs shall replace paragraphs 11 and 12.
2. Paragraph 11: Roads. All roads shall be for common use and shall be maintained by the declarant until they are turned over to Rabun County. The owner of each tract shall make a payment of \$1,500 as a road impact fee to the declarant at closing. Any common use roads damaged by construction equipment during homesite development shall be repaired by the responsible lot owner within 60 days of said damage.
3. Paragraph 12: Upon closing, each lot owner will automatically become a member of the homeowners' association, at no additional cost, until such time as the association assesses any dues. Each lot shall be entitled to one vote in the homeowners' association.

This 14<sup>th</sup> day of March, 2005.


MOUNTAIN CREEK ESTATES

By: *[Signature]*  
Scott P. Lewis, Manager

*[Signature]*  
Witness

Sworn to and subscribed before me on this 14<sup>th</sup> day of March, 2005:

*[Signature]*  
Notary Public

 **Barbara J. Kramer**  
Commission #DD163045  
Expires: Nov 04, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

**AMENDMENT OF DECLARATION OF RESTRICTIONS  
MOUNTAIN CREEK ESTATES**  
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File #04-232  
STATE OF GEORGIA  
COUNTY OF RABUN

WHEREAS, the undersigned, who executed a declaration of protective covenants, conditions & restrictions for Mountain Creek Estates on September 8, 2003, which is recorded in the office of the clerk of Rabun Superior Court in Deed Book C-25,, pages 562; and

WHEREAS, the undersigned is desirous of amending said declaration of restrictions; and

NOW THEREFORE, in consideration of the sum of One Dollars and 00/100 (\$1.00) and other good and valuable consideration. The undersigned hereby amends said restrictive covenants as follows:

1. Paragraphs 11 and 12 of said declaration of restrictions are hereby deleted and the following paragraphs shall replace paragraphs 11 and 12.

2. Paragraph 11: Roads. All roads shall be for common use and shall be maintained by the declarant until they are turned over to Rabun County. The owner of each tract shall make a deposits of \$1,500.00 to the declarant at closing, for the purpose of road repaving. This money shall be held in escrow first by the declarant, and shall be transferred to the homeowner's association within 12 months of this amendment for repair, repaving, or overlay of road right-of-ways. A simple majority vote of the association shall be adequate to expend any escrowed monies. Any monies not spent within 7 years of the formation of said escrow account shall be returned proportionately to the then lot owners of record upon dissolution of said account. This term may be extended up to 3 years as the subdivision is developed. Any common use roads damaged by construction equipment during homesite development shall be repaired by the responsible lot owner within 60 days of said damage.

3. Paragraph 12: Upon creation of a home owners association each lot owner shall automatically become a member of the home owners association, at no additional cost until such time as the owners association assesses any dues. Each lot shall be entitled to one vote, in the home owners association.

This 10<sup>th</sup> day of March, 2004.

**WITNESS**

MOUNTAIN CREEK ESTATES

BY: *[Signature]*

Sworn to and subscribed before me on  
this 10<sup>th</sup> day of March, 2004:

*Carol J Lewis*  
Witness

*Barbara J Kramer*  
Notary Public



**Barbara J. Kramer**  
Commission #DD163045  
Expires: Nov 04, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

# DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS FOR MOUNTAIN CREEK ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, is made this 18<sup>th</sup> day of September, 2003, by Mountain Creek Estates, LLC, (hereinafter referred to as the "Declarant"), as covenants, conditions and restrictions for Mountain Creek Estates as follows:

## WITNESSETH:

WHEREAS, the Declarant is the owner of the property described as Mountain Creek Estates which is located in the unincorporated area of Clayton, Georgia, off of Seed Tick Road to the north, Rickman Airfield Road to the west, and Mattie McCall Road to the northeast, as shown on the **attached map**, and

WHEREAS, it is in the best interest, benefit and advantage of the owners of tracts within Mountain Creek Estates and to each and every person and entity who shall hereafter purchase any of the tracts within Mountain Creek Estates, that certain restrictions and affirmative 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,

NOW THEREFORE, for and in consideration of the premises and of the benefits to be derived by each and every subsequent owner of lands within Mountain Creek Estates, the undersigned do hereby set up, establish and declare that the following restrictions and covenants shall apply to all of said land and to all persons and entities owning said lands, with these covenants to be effective as of the date of this instrument and to be appurtenances running with the land and binding on all persons or entities claiming title.

## PURPOSE

The purpose of these restrictions is to enhance and protect the value, desirability and attractiveness of the property, and maintain the natural beauty and ecological integrity of the development for its intended purpose as residential and vacation home sites. The restrictive covenants are made for the specific purpose of maintaining a community with adequate lot sizes and home sites that offer a forest type setting with harmony and seclusion. Furthermore, the restrictions are to prevent and prohibit uses of the property that would interfere with legitimate residential purposes.

## COVENANTS

1) All tracts shall be residential and no residence shall be constructed thereon of less than 1,500 square feet of heated living area. The use of a portion of the dwelling unit as a home office is allowable as long as it does not create undue client traffic. No business signs are allowed. All exterior construction shall be completed within twelve months from the point of footings being poured.

- 2) No tract may be subdivided or its boundary lines changed. However, Declarant hereby expressly reserves to itself, its heirs, successors and assigns, the right to replat any unsold tracts shown on any recorded plat prior to the delivery of a deed therefor to a property owner, and to create a modified lot or lots. The covenants herein shall apply to each lot so created.
- 3) No mobile homes, modular homes, trailers or manufactured homes shall be allowed on any property. Boats or recreational vehicles stored on the property shall be screened from public view. Campers or recreational vehicles shall not be occupied on the property except by bona fide guests visiting with an owner who can provide off road parking for such vehicles. Motorcycles, motorbikes and/or ATV's shall be operated with mufflers and spark arrestors and may be used for ingress or egress only on completed roads. It shall be the responsibility of each owner to provide adequate parking space for automobiles on his/her tract in order to prevent parking on any common road. No unlicensed or disabled vehicles, mechanical devices, or appliances shall be allowed to remain outside on any property.
- 4) No farm animals or livestock, including but not limited to pigs, sheep, cattle, and poultry shall be kept on any property. Horses and ponies are the only exception. A reasonable number of domestic household pets may be kept upon the property, provided, however, that such use is not for a commercial or business purpose. No property owner shall allow any such animal to become an annoyance or nuisance to neighbors.
- 5) No building materials or any other items used for building purposes shall be stored on any property except for the purposes of construction on such property.
- 6) No noxious or offensive activities shall be carried out upon any tract, nor shall anything be done thereon to cause embarrassment, discomfort, annoyance, or nuisance to any tract's neighbors.
- 7) All L.P. fuel tanks, garbage, or similar storage receptacles shall be buried, suitably fenced or otherwise shielded from public view. No garbage or trash incinerator shall be placed or permitted to remain on a lot or any part thereof. No diesel, gas, or other hazardous chemicals shall be stored on site except in 5-gallon (or smaller) containers. Every residence shall have a minimum of two smoke detectors. (Declarants strongly recommend at least two self-resetting fire sprinklers, with one mounted in the kitchen and one in the laundry room.)
- 8) The grounds of each lot, whether vacant or occupied, shall be maintained by its owner in a neat and attractive condition.
- 9) All homes shall have exterior finishes of wood, stone, brick, stucco, shingle, hardiplank or log. No vinyl siding may be used. The Declarant or his assigns must get preliminary approval of the street perspective of any proposed structure prior to its construction. Said approval or any adjustments thereto shall be due back to the applicant within 15 days of submittal to the Declarants and is only meant to maintain the character of the community within reasonable standards of the surrounding homes.
- 10) **Setbacks.** All residences or other structures shall be set back from platted roads and property lines a minimum of fifteen (15) feet. Chain link fences that are visible from the road are not permitted. All fences visible from the road must be of wood, rock or split rails.

11) **Roads.** All roads shall be for common use and shall be maintained by the Declarant until they are turned over to Rabun County. The owner of each tract shall make a deposit of \$ 1,500.00 to the Declarant at closing. This money shall be held in escrow first by the Declarant, and may be transferred to the homeowner's association (if one is formed) for repair, repaving, or overlay of road right-of-ways. Any monies not spent within 7 years of the formation of said escrow account shall be returned proportionately to the then lot owners of record upon dissolution of said account. This term may be extended up to 3 years as the subdivision is developed. Any common use roads damaged by construction equipment during homesite development shall be repaired by the responsible lot owner within 60 days of said damage.

12) If a homeowner's association is formed, each tract will be entitled to one vote, including vacant tracts owned by Declarant. If a vacant lot is purchased and not built upon, the owner may be released from an association fee until construction begins. "Construction" includes any type of land disturbance, storage building, etc.

13) **Utility Lines & Easements.** All utility lines and connections, including but not limited to electric, telephone, computer, and cable television lines shall be concealed and located underground so as not to be visible. The shoulder of all roads shall be considered utility easements. Additionally, for erosion control management, road and embankment maintenance, as well as utility maintenance, the Declarant, his assignees, or any public agency shall have reasonable access to each lot so as to maintain those facilities, whether or not they lie within dedicated easements.

14) **Water System.** Each tract 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 their property. This system is state approved and regularly tested per Georgia EPD guidelines to monitor water quality. Each owner shall provide suitable plumbing and connections to minimize the likelihood of water being wasted, including check valves, pressure relief valves, regulators, water meters, backflow preventors and other reasonable and suitable connections and piping. The "tap-on" charge will be \$ 1,000.00 unless changed by Declarant and/or its heirs, successors or assigns. Property owners and/or their heirs, successors or assigns shall be billed on a monthly basis for their metered use of water. Water use charges shall mimic those rates charged by the City of Clayton for its water service, though this is not a binding guideline. Payment is due within 15 days, after which time a late fee of one and one-half percent (1.5%) per month will be assessed. Water may be shut off if payment, including late fees, has not been made within 30 days of billing. The Declarant hereby reserves the option, for itself, its heirs, successors or assigns, to transfer, convey and assign unto a future homeowner's association or any other organization or public governmental body, the water system serving Mountain Creek Estates. However, this shall not create an obligation on the part of the Declarant, its heirs, successors or assigns to convey and transfer any ownership rights it or they may have in the water system serving Mountain Creek Estates.

15) **Storm Water Discharge & Erosion Control.** All sediment resulting from land disturbance or construction must be confined to the owner's property and shall not be allowed to run onto the property of other owners or into streams or roadways. Grading, clearing and disposal of debris must conform to all government regulations concerning soil disturbance activity.

Protective Covenants & Restrictions  
for Mountain Creek Estates

16) **Creek Tracts.** Water in creeks and streams shall not be diverted and dammed in such a manner as to materially alter the flow of water or affect the enjoyment of creek owners downstream.

17) The Protective Covenants listed herein shall run with and bind the land, and will be enforceable by the Declarant and/or the property owner's association that may form. The grantee of any deed or other conveyance of any interest in said property, whether or not it shall be so expressed in such deed or other conveyance, shall be bound by the terms and provisions hereof and shall take his/her interest in said property subject to the provisions of this Declaration.

18) **Violations.** Declarant or their designee shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret the provisions of the Declaration. The property owner shall have thirty days from the date of service of a corrective notice to come into compliance with these covenants if a violation exists, after which the Declarants or their assignees can levy a \$50/day fine until such time as the violation is rectified. Said fine also may become a lien against the property at the sole discretion of the Declarant. Declarant's good faith determination, construction, or interpretation shall be final, binding, and not subject to judicial review. If the Declarant is unwilling to make a determination, binding arbitration will be used to settle disputes involving any person or entity who is subject to these protective covenants, restrictions and conditions with the prevailing party being awarded reasonable attorney's fees and costs. Invalidation of any of these covenants by an arbitrator or court of law shall not affect any other provision contained herein, which shall remain in full force and effect.

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

By: Scott P. Lewis, Mgr.  
Scott P. Lewis, Manager, Mountain Creek Estates, LLC

By: Carol J. Lewis  
Carol J. Lewis, Trustee, Mountain Creek Estates, LLC

Subscribed and sworn before me by SCOTT P. LEWIS and CAROL J. LEWIS who are personally known to me, this 18th day of September, 2003.

Barbara J. Kramer  
Notary Public



**Barbara J. Kramer**  
Commission #DD163043  
Expires: Nov 04, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.