

AMENDED SUPPLEMENTAL
DECLARATION OF RESTRICTIONS, CONDITIONS,
EASEMENTS, COVENANTS, AGREEMENTS,
LIENS AND CHARGES

THIS DECLARATION OF AMENDED RESTRICTIVE COVENANTS made and entered into this the 2nd day of September, 2002, by Vista North Carolina Limited, a Limited Partnership, successor in interest to Ecological Development, Inc., herein "Declarant"

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Rutherford County, North Carolina, known as Riverbend at Lake Lure Subdivision, hereinafter "Riverbend", more particularly described on the plats recorded in Plat Book 10, Pages 76 through 81, and Plat Book 11, Pages 51 through 53, and Plat Book 11, Page 98, Rutherford County Register of Deeds and

WHEREAS, it is the desire and intention of Declarant to sell lots in Riverbend under a general plan or scheme for development for the benefit of all of property in Riverbend and for the benefit of future owners of property therein and

WHEREAS, Declarant has previously published various sets of restrictive covenants and supplemental restrictive covenants governing Riverbend, including those recorded in Book 400, Page 265 through 276, and those recorded in Book 402, Page 67 through 83, and Rutherford County Register of Deeds and

WHEREAS, pursuant to the authority of Article VI (4) of the Supplemental Declaration of Restrictions, Conditions, Easements, Covenants, Agreements, Liens and Charges recorded in Book 402, Page 67 through 83, Rutherford County Registry, hereinafter "Supplemental Restrictions", Declarant hereby amends said Supplemental Restrictions with the intention that these Amended Restrictive Covenants shall be the sole set of restrictions, conditions, easements, covenants, agreements, liens, and charges governing Riverbend and

WHEREAS, it is the intention of these Amended Restrictive Covenants that all previously recorded covenants be rendered null and void

NOW, THEREFORE, based on the foregoing, Declarant hereby publishes the following Amended Restrictive Covenants:

I. DEFINITIONS

The following terms as used in this Declaration and any Supplemental Declaration of Restrictions are defined as follows:

- (a) "Articles" means the articles of incorporation of the Association.
- (b) "Association" shall mean and refer to the Riverbend Property Owners' Association.
- (c) "Board" means the Board of Directors of the Association.
- (d) "By-Laws" means the by-laws of the Association.
- (e) "Committee" means the Architectural Control Committee.
- (f) "Declaration" means this Declaration of Restrictions, Conditions, Easements, Covenants, Agreements, Liens and Charges and any amendments hereto.
- (g) "Declarant/Developer" means Ecological Development, Inc., Vista North Carolina Limited Partnership, a Delaware Limited Partnership, its successors and assigns.
- (h) "Developer Control Period" shall mean that until such time as the Developer or its assigns has conveyed of record, by Deed, to ultimate owners, 75% of the total lots it owns in all the Riverbend Subdivisions, including Riverbend and adjacent properties or sooner at Developer's or assigns' option, the Developer or its assigns shall have the right to appoint three (3) of the four (4) directors, with the members of the Association electing one (1) of the four (4) directors. Upon the Developer or its assigns having conveyed 75% of such Lots, and until it has conveyed all of the Lots owned by it in all of the Riverbend Subdivisions, it will have the right to appoint one (1) of the four (4) directors and the members of the Association shall elect the remaining three (3) directors.
- (i) "Development" means all that real property known as Riverbend at Lake Lure and situated in Rutherford County, North Carolina, described in Plat Book 10, Pages 76 through 81, Book 11, Pages 51-53 and Book 11 Page 98 and all other real property which may be annexed thereto as provided herein.
- (j) "Owner" means any person or legal entity, including Developer who holds fee simple title to any Lot except that where a lot is being sold by Developer under an Agreement for Deed, the Buyer thereunder and not the Developer shall

be deemed to be the owner. (This definition is confined solely to the purposes of this Declaration.)

(k) "Supplemental Declaration" means (1) those restrictive covenants subsequently recorded after the covenants set forth herein those subsequently recorded, or (2) in the case of real property being annexed to the Development, the recorded Supplemental Declaration which incorporates the provision of this Declaration therein by reference. In either event, the Supplemental Declaration shall include a description of the real property in the Development subject to the provisions of this Declaration and shall designate the permitted use of such property.

(l) "Improvements" means all buildings, outbuildings, streets, roads, driveways, parking areas, fences, retaining and other walls, docks, piers, hedges, poles, antennas and any other structures of any type or kind.

(m) "Lot" means any numbered lot or parcel within the development shown on a plat.

II. PRINCIPAL USES

The Declarant shall designate the principal use of each Lot made subject to the Declaration. If a use other than those set out herein is designated, provisions relating to permissible uses may be set forth in the Declaration. The Provisions for Single Family Residential are set out below:

A. Single Family Residential:

1. Only One Single Family Dwelling and such outbuildings, as are usually accessory thereto shall be permitted on any Lot designated as Single Family Residential. "All lots not designated herein as Commercial, Multiple, Residential, Duplex Residential, Mobile Home Residential, or Single Family Camping, shall hereinafter be designated "Single Family Residential." The following restrictions shall apply specifically to such Lots:

2. Minimum Area. No dwelling shall be permitted on any lot with less than 1000 square feet of airconditioned and/or heated finished space. First floor space excluding loft shall not be less than 850 square feet. These requirements are exclusive of terraces, garages, carports, balconies or other outbuildings. Necessary parking areas shall be provided by each individual Purchaser in a manner that will not obstruct road traffic or maintenance

operations.

3. Set-Backs. No construction may encroach on any road and/or utility easement or right of way. No construction shall be nearer than 40 feet from the center of any road as constructed. No construction, septic system or building shall be located nearer than 15 feet from the side lot line or 20 feet from the rear lot line. No construction shall be nearer than 20 feet from a lake, river, or park. Owners may request a variance if necessary, which will be considered at the sole discretion of the Board of Directors, or under rules, if any, promulgated by the Board of Directors for the granting of variances.

4. Time to Construct. There shall be no time limit from the date a lot is purchased during which construction of house must be started, however, once construction has been approved by the Architectural Control Committee the exterior of the building must be completed within a period of one year from the date construction is approved.

B. Duplex Residential:

1. Duplex residential means any building which is designed, built, rented or leased, let, or hired out to be occupied or which is occupied as the home or residence of no more than two families, and shall be restricted to the following lots as designated on the Plat of Riverbend Subdivision Recorded at Book 10, Pages 76 through 81, of the Register of Deeds of Rutherford County, North Carolina

- Section 1 - Lots 201, 203, 204, 226, 296, 297
- Section 2 - Lots 72, 74, 79, 91, through 97, 314 through 318, 328 through 340
- Section 3 - Lots 87, 91 through 99, 111, 133, 136, 142, 146 183, 221 through 224
- Section 4 - Lot 1

2. Uses permitted for Single Family Residential lots shall also be permitted for Duplex Residential lots.

3. No dwelling shall be permitted on any lot with floor area (exclusive of roofed or unroofed porches, terraces, garages, carports, parking spaces or other outbuildings) of less than 2000 square feet. Necessary parking shall be provided to accommodate two families in a manner which will not obstruct road

traffic.

4. Set-Backs. No construction may encroach on any road and/or utility easement or right of way. No construction shall be nearer than 40 feet from the center of any road as constructed. No construction shall be located nearer than 15 feet from the side lot line or 20 feet from the rear lot line. No construction shall be nearer than 20 feet from a lake, river, or park. No construction shall be nearer than 20 feet from a lake, river, or park. Owners may request a variance if necessary, which will be considered at the sole discretion of the Board of Directors, or under rules, if any, promulgated by the Board of Directors for the granting of variances.

5. Time to Construct. There shall be no time limit from the date a lot is purchased during which construction of house must be started, however, once construction has been approved by the Architectural Control Committee the exterior of the building must be completed within a period of one year from the date construction is approved.

C. Multiple Residential:

1. Multiple Dwelling means any building or portion thereof which is designed, built, rented or leased, let or hired out to be occupied or which is occupied as the home or residence of three or more families living independently of each other, and shall be restricted to the following lots as designated on Plat of Riverbend Subdivision Recorded at Book 10, Pages 76-81, Book 11 Page 98 of the Register of Deeds of Rutherford County, North Carolina:

Section 1 - Lots 362, 363, 371, 372, 374, 375, 380-398

Section 2 - Lots 75, 76 & 78

2. Uses permitted for Multiple Residential shall also be permitted for Single Family Residential, ~~and~~ Duplex Residential lots, and Timeshare.

3. Each dwelling unit must have a minimum of 500 square feet. This minimum area shall be exclusive of roofed or unroofed porches, terraces, balconies or other outbuildings. Necessary parking areas shall be provided to accommodate each dwelling unit in a manner that will not obstruct traffic nor impede the entry to the building by emergency vehicles.

4. Set-Backs. No construction may encroach on any road and/or utility easement or right of way. No construction shall be nearer than 40 feet from the center of any road as constructed. No construction shall be located nearer than 15 feet from the side lot line or 20 feet from the rear lot line. No construction shall be nearer than 20 feet from a lake, river, or park. No construction shall be nearer than 20 feet from a lake, river, or park. Owners may request a variance if necessary, which will be considered at the sole discretion of the Board of Directors, or under rules, if any, promulgated by the Board of Directors for the granting of variances.

5. Time to Construct. There shall be no time limit from the date a lot is purchased during which construction of houses must be started, however, construction must be completed within a period of one year from the date construction commences.

6. No building in a dwelling group shall be closer to any other building on the lot than a distance equal to one half the average of their heights, nor in any case closer than 20 feet.

7. No building in a dwelling group shall be farther than 100 feet from any street or access drive. Main interior walks shall be of sufficient width and thickness to permit entry of emergency apparatus.

8. No building shall exceed three stories in height.

D. Mobile Home Residential:

1. Mobile Homes means a dwelling unit which rests on wheels, but shall not include a house which is manufactured elsewhere and moved onto a building site, for use as a permanent house and shall be restricted to the following lots as designated at Book 10, Pages 76 through 81 of the Register of Deeds of Rutherford County, North Carolina

Section 2 - Lots 5 and 7, 303 through 313

2. Lots designated as Mobile Home Residential shall also be permitted Single Family Residential as described under II. Principal Uses, Paragraph A of the Supplemental Declaration of Restrictions.

3. No mobile home shall be permitted on any lot with a minimum size less than 600 square feet. No more than one mobile home shall be permitted on a lot. Provision shall be made by the purchaser for parking area that will not obstruct road traffic.

4. Set-Backs. No construction may encroach on any road and/or utility easement or right of way. No construction shall be nearer than 40 feet from the center of any road as constructed. No construction shall be located nearer than 15 feet from the side lot line or 20 feet from the rear lot line. No construction shall be nearer than 20 feet from a lake, river, or park. No construction shall be nearer than 20 feet from a lake, river, or park. Owners may request a variance if necessary, which will be considered at the sole discretion of the Board of Directors, or under rules, if any, promulgated by the Board of Directors for the granting of variances.

5. All mobile homes shall be skirted with materials that will harmonize with the design and material used in the mobile home, as approved by the Committee.

6. No mobile home shall be placed on any authorized lot or parcel of land within the subdivision without first receiving Architectural Control Committee approval regarding location, access, aesthetic appeal, landscaping and physical condition of mobile home. Mobile homes may be approved or denied in the sole discretion of the ACC. Further, the ACC may demand that a mobile home be removed temporarily or permanently at its discretion if any covenant and/or rules and regulations are violated.

7. Time to Construct. There shall be no time limit from the date a lot is purchased during which construction of house must be started, however, once construction has been approved by the Architectural Control Committee the exterior of the building must be completed within a period of one year from the date construction is approved.

E. Single Family/RV/Camper 30 day:

1. Camper means any trailer house, RV, or camper, used or maintained primarily as a temporary dwelling for travel, vacation or recreation purposes.

2. Campers may be placed on any lot or parcel of land within the subdivision on lots designated on

the Plat of Riverbend Subdivision Recorded at book 10, Pages 76-81, Book 11, Pages 51-53, of the Register of Deeds of Rutherford County, North Carolina

Section 1 - Lots 20 through 31, 93 through 109, 117 through 141

Section 2 - Lots 9 through 20, 22 through 70, 114 through 136, 156 through 159, 177, 178, 180 through 185, 188, 190 through 226, 234 through 236, 240 through 274, 281 through 294, 297

Section 5 - Lots 122 through 129, 133 through 161, 174 through 178, 210 through 216, 259, 272 through 331, 333 through 337

except that no RV/camper shall be placed on any authorized lot or parcel of land within the subdivision for more than 30 days.

3. Single Family Dwellings may be constructed on lots designated as Single Family/RV/Camper Residential and such buildings shall comply with the restrictions set forth herein for Single Family Residential.

4. No RV/camper shall be placed on any authorized lot or parcel of land within the subdivision without first receiving Architectural Control Committee approval regarding location, access, aesthetic appeal, landscaping and physical condition of RV/Camper. RV/Camper may be approved or denied in the sole discretion of the Board of Directors. Further, the ACC may demand that a RV/Camper be removed temporarily or permanently at its discretion if any covenant, rule or regulation of the community is violated. An RV/camper lot may not be used for permanent living unless a single family home is constructed.

F. Single Family/RV/Camper:

1. Camper means any trailer house, RV, or camper, used or maintained primarily as a temporary dwelling for travel, vacation or recreation purposes.

2. Campers may be placed on any lot or parcel of land within the subdivision on lots designated on the Plat of Riverbend Subdivision Recorded at book 10, Pages 76-81, Book 11, Pages 51-53, of the Register of

Deeds of Rutherford County, North Carolina

Section 1 - Lots 32 through 53, 62 through 92,
110 through 116

3. Single Family Dwellings may be constructed on lots designated as Single Family/RV/Camper Residential and such buildings shall comply with the restrictions set forth herein for Single Family Residential.

4. No RV/camper shall be placed on any authorized lot or parcel of land within the subdivision without first receiving Architectural Control Committee approval regarding location, access, aesthetic appeal, landscaping and physical condition of RV/Camper. RV/Camper may be approved or denied in the sole discretion of the Board of Directors. Further, the ACC may demand that a RV/Camper be removed temporarily or permanently at its discretion if any covenant, rule or regulation of the community is violated. An RV/camper lot may not be used for permanent living unless a single family home is constructed.

G. Commercial:

1. Commercial building means any building primarily suited for retail and service establishments, and shall be restricted to the following lots designated on the Plat of the Riverbend subdivision Recorded at Book 10, Pages 76-81, Book 11, Pages 51-53 and Book 11 Page 98 of the Register of Deeds of Rutherford County, North Carolina

Section 1 - Lots 1, 72, 284, 360 and 361

Section 2 - Lots 1, 2, 3, 4, and 77

Section 5 - Lots 1, 2, 3, 4, 5, 19, 21, 22, 23,
24, 25, 26, 27, 28, 58, 59, 60, 87, 88, 120 & 121

2. Owners must request permission to construct on a commercial lot and will be considered at the sole discretion of the Board of Directors or the Declarant, or under rules, if any, promulgated by the Board of Directors or the Declarant for the granting of permission to build. With prior approval from the Declarant and/or the Board of Directors the following buildings, structures and uses of land shall be permitted in the above described lots with the noted

requirements:

(a) retail, financial, and personal service establishments, provided there is no storage of merchandise, materials, equipment or junk outside of enclosing buildings or enclosing fences, except automobiles, trucks and other vehicles in running order

b) the fabrication or processing of goods done in connection with and incidental to, the sale of goods on the premises, provided such activities do not give rise to dust, odor, noise, smoke, vibration or intermittent light or glare discernible beyond the zone boundary lines and do not involve the storage of merchandise, materials, products, equipment or junk outside of enclosed buildings except automobiles, trucks and other vehicles in running order

(c) parking lots

(d) private and public office buildings, clinics, clubs, churches and public and parochial schools

(e) fine arts studios, museums

(f) grocery stores

(g) laundrette

(h) motels, hotels and day care nurseries which comply with the State Board of Health requirements

(i) newsstands

(j) radio and television stations

(k) bus stations

(l) other uses rules by the Committee to be similar to uses specifically permitted in the zone.

The following uses will not be permitted on any lot without prior approval from the Declarant:

(m) real estate brokerage office, real estate development office, building or construction office.

3. Lots designated Commercial shall also be permitted for Single Family Residential, Duplex Residential and Multiple Residential uses.

4. Time to Construct. There shall be no time limit from the date a lot is purchased during which construction of house must be started, however, once construction has been approved by the Architectural Control Committee the exterior of the building must be completed within a period of one year from the date construction is approved.

III. COVENANTS RELATED TO USE, UPKEEP
AND CONSTRUCTION OF LOTS

1. No Further Subdivision. No lot or parcels shall be resubdivided or contain more than one (1) dwelling, or its boundary lines changed, except with the written consent of the Board of Directors. However, Developer hereby expressly reserves the right to replat any Lots shown on the plat of said subdivision prior to their sale. The provisions hereof shall apply to each such Lot so created.

2. Approval for Plans and Location for Construction. No building, fence, docks, wall or other structure shall be erected or maintained upon any Lot, nor shall any exterior addition or change or alteration be made to any structure until a submission plan pursuant to the rules and regulations of the Architectural Control Committee has been approved by said committee. The Developer and/or the Board of Directors shall promulgate rules and regulations for Architectural Control of the subdivision which shall be binding upon all lot owners. Such written approval by the ACC shall be valid for a period of one year from date of issue and if the construction is still not completed at the expiration of said approval the applicant must re-submit for a written approval.

3. Temporary Structure. Unless specifically provided under this Declaration, no shed, tent, RV, camper, trailer, basement, shack, garage or temporary building or structure of any kind shall be erected, maintained or used on any lot or portion thereof provided, however, that said temporary buildings for use incidental to the initial construction of improvements and structures permitted thereon may be constructed and maintained, but said temporary buildings shall be promptly removed upon the completion of such construction work, but in any event within one year from the date of construction of such temporary structure.

4. Compliance with all Applicable Governmental Regulations. All construction shall be in compliance with all applicable state and local governmental regulations including building codes and zoning regulations.

5. No Nuisances. No noxious or offensive activity shall

be carried on upon any Lot or any public area within the community, nor shall anything be done thereon tending to cause harm, damage, embarrassment, discomfort, annoyance or nuisance to the community by any owner, agent of owner or their employees, suppliers or contractors, or their guests, renters, or any persons invited by an owner to the community. Remedies to correct violation of this paragraph are set forth in section VI subparagraph 1 of these covenants.

6. Restrictions on Signs and Mailboxes. No signs, except those of the developer, and as allowed by the Committee in the Commercial Lots, will be permitted without the prior written consent of the Developer. The Committee may require the grouping of mailboxes and newspaper containers and may make other requirements concerning their location on the lots.

7. Refuse Disposal and Concealment of Fuel Storage Tanks and Trash Receptacles. Fuel storage tanks on any lot shall not be visible from any street, or adjoining water or other common area within the subdivision. No accumulation of refuse or garbage except in such concealed receptacles, shall be permitted.

8. Maintenance of Lots and Improvements. The Owner shall be responsible for, and shall maintain and keep in good condition, the lot and all improvements thereon. This includes, but is not limited to, being kept free of accumulations of brush, trash, junk, building materials, inoperable automobiles and other unsightly things. In addition to the remedies of violations set forth in section VI paragraph 1 of these covenants after (14) days written notice to the owner, sent to the address contained in the list maintained by the Association, the association reserves the right of entry for the purpose of clearing away such violation and assessing the cost thereof. The cost of clearing away any such violations thereof shall be assessed including but not limited to interest at the highest rate allowed by law, and attorneys fees against the Owner, and such assessment shall be added to owners dues and enforced as other charges and/or liens herein provided for.

9. Mining and Drilling. No oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor wells for the production of, or from which there may be produced, oil or gas shall be dug or operated upon said premises, nor shall any machinery, appliance or structure ever be placed, operated or maintained thereon in connection therewith. Nor shall any mineral excavation, or shafts, or machinery

used incident thereto be permitted upon or in any Lot. No derrick or other structure intended for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

10. Animals. No livestock, poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept and horses and ponies may be kept, provided none of such animals are kept, bred or maintained for any commercial purposes. No pets or other animals shall be kept in such number or in such manner as to constitute a nuisance.

11. Burning Permits. No open fires shall be permitted without a burning permit secured from the NC Division of Forest Resources, its' licensed agencies or appropriate governmental agency. Under no circumstances shall be anything other than plant growth be burned. Construction waste materials shall be disposed of off site. Burning of this material on site is not permitted by North Carolina Division of Forest Resources. Please see regulation 15A NCAC 2D, 1900 "Open Burning" for details. Disposal of this material in the Riverbend community trash receptacles is strictly prohibited.

IV. RESERVATION OF EASEMENTS

1. Utility Easements. Developer hereby reserves the right without further consent from any land owner to grant to any public utility company, municipality or other governmental unit, water or sewer company an easement for a right-of-way in all streets and roads on which the land hereby conveyed abuts and also in and to a 10 foot strip of land located along the front lot line, and a 5 foot strip of land located along any other lot line, for the right to erect and lay, or cause to be erected or laid, maintained, removed or repaired, all light, telephone and telegraph poles, wires, water and gas pipes and conduits catch basins, surface drains, sewage lines and other customary or usual appurtenances as may, from time to time, in the opinion of the Developer, or any utility company, or governmental authority, be deemed necessary for maintenance and repair of said utilities. Any right of recourse on account of temporary or other inconvenience caused thereby against Developer is hereby waived by the Buyer.

2. Waste Disposal System and Well and Connection to Central System. All owners having buildings or structures to be inhabited or requiring waste disposal or water shall have systems that meet the requirements of the North

Carolina State Board of Health or County Health Department. All owners shall connect with central water and/or sewerage disposal utilities within thirty (30) days after being made available, at Owners expense. However, wells may be maintained for outside use, including watering of lawns and swimming pools, but subject to approval of duly constituted public health authorities.

3. Traffic Regulation. Until such time as a public body accepts dedication of all roads shown on the above referenced plats, Declarant shall have the right and power and option to establish and enforce rules and regulations governing the operation of the vehicles and conveyances, motor powered or otherwise, on the streets and roads of the subdivision. Except however, under no circumstance may three wheelers, 4 wheelers, 6 wheelers or similar type of vehicles be used by anyone other than the Developer and the Association for its maintenance operations. Such rule and regulation making power and option shall include, but is in no way limited to, the establishment and enforcement of speed limits, stop signs, yield signs, no parking zones, traffic control signals, safety zones or other traffic control and safety devices, rules and regulations together with reasonable remedies, including fines for violations of such rules or regulations. All lot owners, residents, renters, their guests, contractors and other visitors, shall drive in a reasonable manner on subdivision roads. If any lot owner, resident, or any guest, contractor, or visitor of a lot owner or resident persists in driving in an unsafe or unreasonable manner, the Developer and/or the Board of Directors may issue a written warning to said lot owner or resident. In the event the unsafe driving persists after receipt of the warning, the Developer and/or Board of Directors may seek a court order prohibiting said unsafe driving, and the lot owner or resident shall be responsible for any costs of such legal action including reasonable attorney fees. The right and power and option herein given to Declarant in this Article may be assigned to any appropriate governmental body or authority or to the Association.

4. Lakes and River regulations. No motorized boats or vehicles shall be permitted on the lakes other than boats with electric motors. All owner shall comply with North Carolina rules and regulations with regards to fishing and boating. Rules and regulations pertaining to use of the lakes, river and other public ares may be published by the Board of Directors from time to time.

V. PROPERTY OWNERS' ASSOCIATION

1. Membership Covenant. All owners of lots in Riverbend Subdivision shall by virtue of said ownership be members of the Riverbend Property Owners Association, Inc., a nonprofit corporation, upon signing the contract to purchase their lot. Each lot shall be entitled to one (1) membership, and each lot owner shall maintain good standing in said Association by (a) abiding by all rules and regulations promulgated by the Developer and/or Board of Directors or any committee thereof (b) paying all annual and other assessments and charges when due and (c) abiding by the terms of these restrictive covenants. A member not in good standing shall not have the right to vote on any subdivision matter, in addition to any other sanctions imposed by these covenants, the Developer, or the Board of Directors of the Association. The Developer and/or the Board of Directors shall have all the powers set forth in North Carolina General Statute 47F-3-102 et seq, including the powers to establish rules and regulations and to make assessments reasonably necessary to maintain the subdivision in good condition and to operate the Riverbend Property Owners Association.

Provided however, that in this respect, the Developer shall not be considered an Owner unless the annual assessment is insufficient any particular year, in which event, the Developer shall be responsible for any excess money required up to a limit of the then annual assessment per lot per year, measured by the number of lots not yet sold whether by Deed or by Agreement for Deed, i.e., those lots still owned by the Developer. At such time the Developer no longer manages the Property Owners Association, the Developer shall not be considered an Owner with regard to any assessments or fees.

Each year, the Board of Directors shall set the amount of the annual assessment to reasonably meet the needs of the Association. Any increase in the annual assessment, in order to be effective, must be communicated in writing to the members at least sixty (60) days prior to the billing date for the year for which the assessment is made.

In addition to the annual assessments authorized hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, but which may be payable annually over a period not to exceed five years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that notwithstanding any provisions, By-Laws, any such assessment shall be approved by both (i) a vote of a

majority of the holders of an Agreement for Deed, and of record owners other than the Developer and (ii) the Developer. Approval rights of the Developer under this provision shall cease when the number of lots owned by the Developer equals 20% or less of the total lots in the subdivision.

This membership covenant shall be deemed to run with the land and the non-payment of any the annual dues, fines or charges from the association and/or the ACC when they become due shall bear an interest rate at the highest rate allowed by law from the date due until paid. In addition, reasonable attorney fees shall be charged for collection if necessary. All charges due shall become a lien upon the applicable lot and shall be enforceable by the Association by proceeding at law or in equity.

2. Architectural Control Committee. The Architectural Control Committee ("ACC") shall enforce rules and regulations promulgated by the Developer and/or the Board of Directors to govern or preserve the architectural quality and general viability of the buildings in the subdivision. The Association shall select an ACC to perform the functions set out herein and such other functions as shall be assigned to it by the Developer and/or Board of Directors. Among these functions the ACC shall have the right to fine owners for violations of the covenants and restrictions and for violations of the rules and regulations of the ACC. All ACC fines shall be added to the dues and shall be deemed to run with the land and the non-payment of any of the annual dues, fines or charges from the Association and/or the ACC when they become due shall bear an interest rate at the highest rate allowed by law from the date due until paid. In addition, reasonable attorney fees shall be charged for collection if necessary. Until such time as the Architectural Control Committee has been selected, or if the ACC fails to function the Developer may carry out that Committees functions.

VI. REMEDIES FOR VIOLATIONS, AMENDMENTS & TERMS

1. Enforcement. Shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain violations or to recover damages. Additionally, any person or persons violating or attempting to violate any covenants may be barred temporarily or permanently from use of amenities, all rights and privileges suspended and/or fined. This membership covenant shall be deemed to run with the land and the non-payment of any the annual dues, fines or charges from the association and/or the ACC when

they become due shall bear an interest rate at the highest rate allowed by law from the date due until paid. In addition, reasonable attorney fees shall be charged for collection if necessary. All charges due shall become an assessment upon the applicable lot. Any assessment levied against a lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. The association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under the General Statutes of North Carolina.

2. No Rights Waived by Delay. No delay or omission on the part of the Developer or the Owner or Owners of any lot or lots in said property, in exercising any right, power or remedy herein provided for in the event of any breach of any of the provisions, restrictions, conditions, easements, covenants, agreements, liens and charges herein contained, shall be construed as a waiver thereof or acquiescence therein and no right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against Developer for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event of any such breach, or for imposing herein provisions, restrictions, conditions, easements, covenants, agreements, liens and charges which may be unenforceable.

3. Invalidation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

4. Amendments. Any of the provisions of this Declaration may be annulled, amended or modified as to all or part of the lots subject to these restrictions at any time by the filing in the Office of the Register of Deeds of Rutherford County of an instrument setting forth, such annulment, amendment or modification, executed by either the Developer, or assigns at any time during which it owns of record lots in Riverbend Subdivision or adjacent properties which it has or intends to subdivide or the Owner or Owners of record (as shown upon the records in the Office of the Register of Deeds for Rutherford County at the time of filing of such instrument) of seventy-five percent (75%) of the Lots subject to these restrictions. For the purposes of this section, the Developer shall be considered a Lot Owner, and shall have the right to one vote for each lot owned by the Developer at the time of the vote.

5. Term. The provisions of this Declaration shall run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these amended covenants are recorded at which time said covenants shall be automatically extended for successive periods of ten (10) years unless prior to the beginning of such a ten (10) year period an instrument signed by the then Owners of a majority of lots subject to this Declaration agreeing to terminate, amend or modify these restrictions shall have been recorded in the Office of the Register of Deeds for Rutherford County, North Carolina.

6. The lots, in addition to the restrictions and conditions herein contained, are conveyed subject to all present and future rules, regulations and resolutions of the County of Rutherford, State of North Carolina, if any, relative to the zoning and the construction and erection of any buildings.

7. Notices. Any notice required to be sent to any member or Owner under the provisions of the Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

8. Assignment. Once the Developer has conveyed by Warranty Deed or Agreement for Deed at least 900 lots, it may assign any and all rights and responsibilities, other than assessment obligations, it has under the terms of this Declaration to the Riverbend Property Owners' Association. In the event the Developer transfers all of its remaining interest in the Subdivision to the third parties they shall become the Declarant and have all the rights and responsibilities of the Developer under the terms of this Declaration.

IN WITNESS WHEREOF, THE DECLARANT HAS EXECUTED THIS DECLARATION THE DAY AND YEAR FIRST ABOVE WRITTEN

VISTA NORTH CAROLINA LIMITED PARTNERSHIP
VISTA NORTH CAROLINA, INC. GENERAL PARTNER

BY: _____
(Corporate Seal) Robert Birenbaum, President

Attest:

Martin Birenbaum, Secretary

