

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

DECLARATION OF  
RESTRICTIVE COVENANTS  
RIVERCREST

THESE RESTRICTIVE COVENANTS, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2002, by and between SCHNYDER & RIELS DEVELOPMENT, INC., hereinafter referred to as the "Developer" and all present and future purchases and owners of lots within the Subdivision of the land known as RIVERCREST, hereinafter called "Property" which is shown on that plat of RIVERCREST recorded in Plat Book \_\_\_\_ at Page \_\_\_\_, said plat, including any subsequently recorded plat, hereinafter called "Plat".

WITNESSETH:

WHEREAS, Developer is the owner of Property; and

WHEREAS, Developer desires, for the benefit of Property and for the benefit of future purchasers and owners of lots within Property, that Property shall be developed and used exclusively as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and for the advantage which Developer will receive from the sale of such lots in a restricted Subdivision, Developer does hereby restrict Property as follows:

1. Property shall be used solely for single-family residential purposes. Only one single-family residence shall be built upon any lot within Property or upon any hereinafter permitted combinations of lots or portions thereof. No owner will erect, license, or suffer to be erected or maintained on Property or any part thereof, any commercial or manufacturing establishment or structure, factory, apartment house, lodging house, rooming house, hospital, sanitarium, multi-unit dwelling or structure designed for the use of more than one family, or at any time use or suffer to be used any house, building, or structure erected, adapted, or placed thereon for any such purpose.

2. No construction shall be initiated on any lot and no building, appurtenant structure or other improvement, including fencing, shall be erected, placed, or altered on any lot until the purposed building plans, specifications, or plat plan showing the purposed location of such building, structure, driveways, landscaping and/or parking areas, construction schedule and licensed general contractor shall have been approved in writing by Developer or by a committee or association of homeowners appointed by Developer for such purpose, their successors and assigns. Rejection or acceptance of any proposal shall be based primarily on the requirements of these Restrictive Covenants. No

alterations may be made in any such proposal shall for improvements or construction after approval is given by Developer, except by and with the written consent of Developer. No alterations in the exterior appearance of any building or structure shall be made without like approval by Developer. One copy of all plans, specifications, and other data related to the proposal shall be furnished to Developer for its records. The Developer reserves the right to establish an approved builder list and require that all future construction be done by one of the "approved" builders. The Developer will charge an approved builder fee to supervise the construction on the lot to ensure compliance with the approved plans. Said fee shall be paid in advance, at the time the plans are approved.

3. Notwithstanding anything else to the contrary, the Developer shall be the sole determiner for the approval of any plans for improvements on any lot in RIVERCREST. The Developer may withhold approval of plans for any reason including purely aesthetic considerations.

4. The exterior of all houses and other appurtenant structures must be completed within one (1) year after the construction of same shall have commenced; provided, however, Developer may, upon application of the owner, approve an extension of the time for completion upon such grounds as Developer may deem reasonable. Landscaping shall be considered to be part of the construction process. A site plan must be submitted prior to construction and completion must be within one (1) year.

5. The finished floor area of the main dwelling structure, exclusive of carports, garages, breezeways, patios, porches basements, and unfurnished storage spaces and other unfinished areas, shall be not less than 1650 square feet. Developer reserves the right, in its discretion, to reduce or otherwise modify the above square footage requirements.

6. No building shall be erected with exteriors of exposed cinderblocks, and no building shall be built where the siding thereof shall consist of asbestos shingles or aluminum. There shall be no prefabricated buildings permitted on any lot within Property. There shall be no prefabricated buildings or structures placed upon lots within the Property except prefabricated components of trusses, or cabinet units, which shall be permitted. Developer reserves the right to modify and/or amend this paragraph to adapt the development of Property to future residential development standards.

7. No mobile home, trailer, tent, shack or other out building shall be placed or erected on Property. Nothing in this paragraph shall prohibit the placement of a temporary shelter to be used by a contractor or builder during the construction of a main dwelling house on any lot within Property, as long as said temporary shelter shall not be used as a residence or be permitted to remain on the lot after completion of construction. No dwelling house or other structure erected on any lot within property shall be occupied as a residence or otherwise prior to its being substantially completed as herein required.

8. No building shall be erected or located nearer than 15 feet from any road right-of-way, exclusive of those rights of way shown as "common drives" or "common

driveways" on Plat. No building shall be erected or located nearer than 6 feet to any side, lot line, or 15 feet from rear lot line. For the purpose of this paragraph, stoops, terraces, eaves, steps, and open, uncovered porches or decks shall not be considered as part of a building. No portion of a building shall be permitted to encroach upon any easement or right of way established on Property without consent of Developer.

9. No numbered lot within Property shown on the aforesaid Plat of Property may be re-subdivided. Provided, however, prior to the sale of a lot or lots by Developer, Developer reserves the right to re-subdivide said unsold lots or add additional lands to unsold lots by recording an amended Plat, and these Restrictive Covenants shall bind said lots as re-subdivided. Any two or more numbered lots shown on said Plat may be combined by an owner to form a single residential lot which shall be subject to these Restrictions in the same manner as if said lot as combined was an original numbered lot within Property. Where a residence has been erected on land within Property consisting of two or more lots, none of said lots shall thereafter be sold, transferred, or conveyed separately if such sale, transfer, or conveyance would result in a violation of these Restrictive Covenants.

No existing right of way may be used for adjacent property without express written recorded consent of Developer.

10. The owner of each home within Property shall provide adequate space for off-street parking for at least two automobiles. Parking on the streets of Property shall not be permitted. Any RV, Boat, Etc. kept within the Development must be stored in an approved garage as described in item 2 of these Restrictive Covenants. All vehicles within the development must have current tag and inspection sticker.

11. No sign of any kind shall be displayed to public view on any home within Property, except one (1) sign of not more than five (5) square feet advertising any lot for sale, or signs used by a builder, architect, or Developer to advertise Property during the construction and/or sales period. Nothing in this paragraph shall be construed to prevent Developer from erecting or placing entrance display signs or signs designed to designate areas within Property including street signs.

12. No unlawful, improper, or immoral use shall be made of Property. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done upon any lot within Property tending to cause embarrassment, discomfort, annoyance, or a nuisance to the neighborhood. No livestock or poultry, except dogs, cats, or other outside pets, may be kept by the owner or occupant of a dwelling within Property, and in connection therewith, Developer reserves the right, in its absolute discretion, to declare any such animal a nuisance and require adequate enclosures approved by Developer or the removal of such animal from Property. All pets must be kept on the owner's lot or on a leash. No pets shall be restrained by a chain, rope, etc.

13. No hunting shall be allowed within Property.

14. No motorcycles, minibikes, or other motorized two, three or four wheel vehicles shall be allowed within Property other than duly licensed vehicles which are used exclusively for transportation purposes, and then, only if properly managed, with it being further understood and agreed that such motorcycles, minibikes, or other motorized vehicles so licensed shall be allowed to operate within Property only upon the regularly platted road rights of way.

15. It shall be the responsibility of each lot owner within Property to prevent the development of any unclean, unsightly, or unkept conditions as to buildings or upon the grounds of a lot which shall tend to substantially decrease the beauty and attractive appearance of the neighborhood within Property. All vehicles considered by Developer to be inoperable or works in progress shall be stored in the garage and not exposed to public view.

16. Unsightly objects, all garbage and trash containers which are kept upon any lot within Property must not be visible from adjoining lots or from any road rights of way shown on the aforesaid Plat of Property or from any "common drives" providing access to any lot within Property. No fuel tanks, bottled gas tanks, or similar storage receptacle may be exposed to view on any lot within Property. In addition, trash, garbage, or other waste shall be kept in sanitary containers until disposed of by the owner. No portion of any lot shall be used or maintained as a dumping ground for trash, garbage, or rubbish of any description. No wrecked, junked or undrivable motor vehicles shall be placed or kept within Property.

17. Utility and drainage easements affecting all lots within Property are reserved ten (10) feet in width along each interior and rear lot line for the installation and maintenance of utilities and drainage facilities. Neither Developer, its successors and assigns, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubberies, trees, flowers, or to any other improvements situated within the area of said easements and Developer, and any utility company as aforesaid, reserves the right to enter upon any of the lots within Property for the purpose of installing and maintaining any facilities necessary for the purposes of these easements.

Electric power, telephone, and any cable television services to all structures on the lots within Property shall be by underground cable or underground wires from the prospective utility company's main underground cables or lines to respective structures on Property. The Developer reserves the right to subject the real property in this subdivision to contract with Carolina Power and Light Company for the installation of street lighting, which requires a continuing monthly payment to Carolina Power and Light Company by each residential customer.

18. The street rights of way shown on Plat, including "common drives", shall be constructed by Developer and maintained as private streets. Until such time as appropriate action may be taken to obtain acceptance and approval of said streets into the State Highway System, it shall be the responsibility of the owners of lots within Property to maintain the streets and common drives, and the costs of such maintenance shall be pro-rated equally among each lot owner, each lot (or lot combined as allowed in paragraph 8) to be subject to one maintenance share.

Developer, for itself, its successors and assigns, including a Homeowner's Association, created as hereinafter provided, reserves the rights to establish rules and regulations for the maintenance of said streets (which may include street rights of way and those areas adjoining shown as "green space" on the Plat), including the requirement of assessments in the minimum amount of \$200.00 annually from each lot owner, excluding each lot owned by the undersigned Developer, for the purpose of maintaining, repairing, constructing, and improving the street rights of way and green space within Property.

Annual assessments shall be assessed on a calendar year basis and shall be due and payable on January 1st of each calendar year. Such assessments, together with interest at the legal rate and the costs of collection, shall be a charge upon the land and shall be a continuing lien from and after the due date until paid, upon the lot against which each such assessment is made. Any change in assessment must be approved by Developer.

19. No other easements, rights of way or rights of access shall be deeded, granted, or in any way given by the owner of any lot within Property to any other person, firm or corporation through and over any lot within Property without the written consent of Developer. In particular, no owner of a lot along the perimeter of Property shall permit such lot to be used for access to or from any real property not located within Property without the written consent of Developer.

The rights of way or easements established and dedicated within Property are not intended, dedicated, or in any way granted to any real property, or the owners thereof, adjoining Property and no right of way or easement shall be used by owners of real property adjoining Property without the written consent of Developer.

20. No television or communications satellite dishes shall be permitted on Property, without the express approval of Developer, and no radio tower transmitters shall be allowed. the location of such items and privacy shielding must be approved by Developer. Requests for approval shall be submitted pursuant to paragraph 2 of the Declarations and the Developer's approval shall be determined according to provisions of the Declaration.

21. All covenants, restrictions and affirmative obligations set forth in these Restrictive Covenants shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date of recordation hereof, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of lots affected by such Covenants has been recorded, agreeing to amend or terminate said Covenants in whole or in part.

22. In the event of a violation or breach of any of these Restrictive Covenants by any property owner, or agent of such owner, then Developer, the Homeowner's Association, or the owner of any lot in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, Developer shall have the right, on any lot in the subdivision which is in violation exists, and summarily abate or remove the same at the expense of the owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, or condition in these Restrictive Covenants, however long continued, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

23. The invalidation by any Court of any restriction or restrictions contained in these Restrictive Covenants shall in no way affect any of the other restrictions contained herein which shall remain in full force and effect.

24. In that it is contemplated that a Homeowner's Association may be created by Developer for the owners of the lots in RIVERCREST, it is hereby expressly understood and agreed that each owner of each lot in this Subdivision agrees to and shall be a member of and be subject to the obligations and duly enacted By-Laws of any such Homeowner's Association.

IN WITNESS WHEREOF, we hereby set our hands and seals this the day and year first above written.

DEVELOPER:

\_\_\_\_\_  
Schnyder & Riels Development, Inc..  
(SEAL)

ATTEST: Secretary

\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, \_\_\_\_\_, a Notary Public for said County and State,  
do hereby certify that James A. Riels personally appeared before me this day and  
acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this the \_\_\_\_ day of \_\_\_\_\_,  
2000.

(Notary Seal)

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_



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Recorded: 07/06/2018 at 12:11:38 PM  
Fee Amt: \$26.00 Page 1 of 4  
Workflow# 0000475925-0001  
Buncombe County, NC  
Drew Reisinger Register of Deeds

BK 5680 PG 1349-1352

NORTH CAROLINA  
COUNTY OF BUNCOMBE

**AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS**  
**RIVERCREST**

PREPARED BY & RETURN TO: Charles E. Flowers, III: Dungan, Kilbourne & Stahl,  
P.A. One Rankin Ave., Third Floor, Asheville, NC 28801 Box 90 ✓

GRANTORS: Rivercrest Property Owners' Association, Inc.

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Return to: Dungan, Kilbourne & Stahl, P.A., 1 Rankin Avenue, Third Floor, Asheville, NC 28801  
Box 80

STATE OF NORTH CAROLINA  
BUNCOMBE COUNTY

Reference: Deed Book 2871, Page 860

**AMENDMENT TO DECLARATION OF  
RESTRICTIVE COVENANTS RIVERCREST**

This Amendment to Declaration of Restrictive Covenants Rivercrest is made by the Rivercrest Property Owners' Association, Inc. ("Association").

**WITNESSETH**

WHEREAS, Rivercrest is a residential real property development located in Buncombe County, North Carolina ("Subdivision") governed by that Declaration of Restrictive Covenants Rivercrest recorded in Deed Book 2871, Page 860 of the Buncombe County Registry (hereinafter "Declaration");

WHEREAS, in accordance with the Declaration, Rivercrest Property Owners' Association, Inc. ("Association") has been created and is the duly organized and authorized association of Lot Owners for the Subdivision;

WHEREAS, the Subdivision was created after January 1, 1999, and as such it is subject to those provisions contained in North Carolina General Statute, Section 47F, the North Carolina Planned Community Act (the "Act").

WHEREAS, Rivercrest is a "Planned Community" as that term is defined in Section 47F-1-103(23) of the Act.

WHEREAS, Section 47F-2-117 of the Act provides that a Planned Community may amend its Declaration by affirmative vote or by written agreement signed by the lot owners of lots to which sixty-seven percent (67%) of the votes in the Association are allocated.

WHEREAS, ballots have been forward to ever member and at least sixty-seven percent (67%) of the members of the Association entitled to vote have cast their ballot in favor of amending the Declaration.

Now, Therefore, the Declaration is amended as follows:

*Item (1) of the Declaration is amended by adding the following two paragraphs after the first paragraph in that section:*

1. In order to assure that the community retains its single-family residential character and to protect the value of the Lots of Owners who are financially invested in and committed to preserving the current residential character and the scheme of the development for the community, short-term rental of any property in Rivercrest subdivision is prohibited. For the purposes of this Declaration and any subsequent Declaration that may be recorded, "Short-term Rental" is defined as the renting of any dwelling for a period of less than six (6) months. Further, any short-term rental of any sort of less than six (6) months, whether pursuant to a lease or a license agreement, shall be construed and prohibited as a commercial activity for the purposes of this Declaration and as the same has been or shall be subsequently amended.

Pursuant to North Carolina General Statute 47F-3-102 (1) the Board retains the right and the authority to develop rules and regulations for any provision in this Section, including but not limited to the renting of any dwelling in the Subdivision.

IN WITNESS WHEREOF, the Association has hereunto caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, as of the day and year first above written.

This 21<sup>st</sup> day of June, 2018.

Rivercrest Property Owners' Association, Inc.,

By: John P. Lennihan  
President

By: Joann L. Drew  
Secretary

STATE OF North Carolina, COUNTY OF Buncombe

I, Inna Clamsor, a Notary Public of Henderson County, North Carolina, certify that John P. Lennihan and Joann Drew personally came before me this day and acknowledged that he/she is the Secretary of Rivercrest Property Owners Association, Inc., a North Carolina Non-Profit Corporation, and that by authority duly given and

as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by him/her as its Secretary.

WITNESS my hand and official seal, this the 21<sup>st</sup> day of June, 2018.

Inna Clamser  
Official Signature of Notary

Inna Clamser  
Notary's printed or typed name:

(Official Seal)

My commission expires 05.06.2022

