

5/25/04

BY LAWS

OF

RIVERBEND ON THE TUCKASEGEE HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION. The name of the corporation is Riverbend On The Tuckasegee Homeowners' Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 295 Chickamauga Circle, Sylva, North Carolina 28779, County of Jackson, or at such other place as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Riverbend On The Tuckasegee Homeowners' Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Conditions, Restrictions and Stipulations such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area real estate.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple

title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to R. Phillip Haire, developer of Riverbend Estates.

Section 7. "Declaration" shall mean and refer to the Revised Conditions, Restrictions and Stipulations applicable to the Properties described in Plat Cabinet 3, Slide 808; Plat Cabinet 11, Slide 82 and Plat Cabinet 11, Slide 83, in the Office of Register of Deeds for Jackson County, North Carolina.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Conditions, Restrictions and Stipulations.

### ARTICLE III

#### MEETING OF MEMBERS

SECTION 1. ANNUAL MEETINGS. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held between July 1 through July 10, each year thereafter between the hours of 10:00 o'clock, A.M. and 5:00 o'clock, P.M. as set by the Board. If the day fixed for the annual meeting of the members is a legal holiday in the State of North Carolina, such meeting shall be held at the same hour on the next succeeding business day.

X SECTION 2. SPECIAL MEETINGS. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of

Directors, or upon written request of one-fourth of the members who are entitled to vote.

SECTION 3.      NOTICE OF MEETINGS. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose of purposes for which the meeting is called, shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

SECTION 4.      QUORUM. The presence at the meeting of members entitled to cast fifty (50%) percent plus one of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

SECTION 5.      VOTING. Each member shall be entitled to one vote for each lot owned but in the event multiple lots are owned by one person or persons and consist of one residential unit, then the said residential unit shall be entitled to cast only one vote.



Multiple owners of one lot shall be entitled to cast only one vote per lot.

SECTION 6.      PROXIES. Written proxies duly signed and notarized shall be permitted to vote.

#### ARTICLE IV

##### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

SECTION 1.      NUMBER. The affairs of this Association shall be managed by a Board of not less than three (3) nor more than nine (9) directors, who shall be members of the Association. There shall be three (3) member of the initial Board of Directors.

Section 2.      TERM OF OFFICE. At the first annual meeting of the members, the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect one director for a term of three years.

X SECTION 3.      REMOVAL. Any director may be removed from the Board, with cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, the successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his or her predecessor.

SECTION 4.      COMPENSATION. No director shall receive compensation for any service he or she may render to the Association. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 5.      ACTION TAKEN WITHOUT A MEETING. The directors shall have the right to take any action in the absence of a meeting



which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1.      NOMINATION.      Nomination for election to the Board of Directors shall be made by a Nominating Committee. Members of the Board of Directors may also be officers of the Association. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than a number of vacancies that are to be filled. Such nominations may be made from among members.

Section 2.      ELECTION.      Election to the Board of Directors shall be by secret written ballot. At such elections the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETINGS OF DIRECTORS

SECTION 1.      REGULAR MEETINGS. Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time and place on the next day which is not a legal holiday.

X SECTION 2.      SPECIAL MEETINGS. Special meetings of the Board of Directors shall be held when called by the president of the Association or by any two directors after not less than three (3) days notice to each director.

SECTION 3.      QUORUM. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII

### POWER AND DUTIES OF THE BOARD OF DIRECTORS

Section 1.      POWERS. The Board of Directors shall have power to:

(a) adopt, amend and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) file liens, impose fines and other penalties for violations by such member of the Declarations and/or who

shall be in default in the payment of any assessment levied by the Association or violation of the Conditions, Restrictions and Stipulations or the Rules and Regulations. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published Rules and Regulations;

(c) exercise all powers, duties and authority vested in or delegated, by Chapter 47C, Planned Community Act, of the North Carolina General Statutes, and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Conditions, Restrictions and Stipulations;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2.      DUTIES. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;



X (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the CONDITIONS, RESTRICTIONS AND STIPULATIONS, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days in advance of each annual assessment period; and

(d) issue, or to cause an appropriate officer to issue, upon request by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association, as it may deem appropriate;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1.      ENUMERATION OF OFFICERS. The officers of this Association shall be a President; Vice-President; Second Vice-President; Secretary and a Treasurer who shall at all times be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create.

Section 2.      ELECTION OF OFFICERS. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3.      TERM. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4.      SPECIAL APPOINTMENTS. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

X Section 5.      RESIGNATION AND REMOVAL. Any officer of the Association may be removed from office with cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.      VACANCIES.      A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the office he or she replaces.

Section 7.      MULTIPLE OFFICES. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8.      DUTIES. The duties of the officers are as follows:

President

(a) The President shall preside at all meeting of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign any promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the Event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

Second Vice-President

(c) Shall serve as an arbitrator for any disagreements or disputes that may arise between the Association and or members of the Association.



### Secretary

(d) The Secretary shall record the votes and keep minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

### Treasurer

(e) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse the funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year at the expense of the member <sup>who</sup> requests the audit; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. The Treasurer shall issue certificates indicating the payment or non-payment of assessments on specified lots.

## ARTICLE IX

### COMMITTEES

X The Board of Directors shall appoint an Architectural Control Committee to oversee compliance of all new homes and/or improvements, and a Nominating Committee, as provided in these

By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE X

##### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Conditions, Restrictions and Stipulations, the Rules and Regulations, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### ARTICLE XI

##### ASSESSMENTS

As more fully provided in the CONDITIONS, RESTRICTIONS AND STIPULATIONS and Rules and Regulations, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property on which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner that Deed of Trust may be foreclosed under Power of Sale under Chapter 45 of the North Carolina General Statutes, or its successors; and interest, costs, and reasonable attorney's fees of any such action shall be added to

the amount of such assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his or her Lot.

#### ARTICLE XII

##### CORPORATE SEAL

The Association shall not have a corporate seal.

#### ARTICLE XIII

##### AMENDMENTS

X Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the CONDITIONS, RESTRICTIONS AND STIPULATIONS and Rules and Regulations and these By-Laws, the CONDITIONS, RESTRICTIONS AND STIPULATIONS and Rules and Regulations shall control.

#### ARTICLE XIV

##### FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end of the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation.



CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the RIVERBEND ON THE TUCKASEGEE HOMEOWNERS' ASSOCIATION, INC., a non-profit, North Carolina Corporation, and,

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 25<sup>th</sup> day of May, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my hand for said Association this 25<sup>th</sup> day of May, 2004.

Edna B Allen  
Secretary