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 Pitt County, NC
 Lisa P. Nichols REG OF DEEDS

BK **4022** PG **306-317**

File:

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~~Mail to:~~ Vicus Development, LLC

NORTH CAROLINA

PITT COUNTY

**DECLARATION OF CONDITIONS, RESTRICTIONS AND COVENANTS
 RUNNING WITH THE LAND FOR WILDFLOWER RIDGE, SECTION 2,
 AND WILDFLOWER RIDGE HOMEOWNER'S ASSOCIATION, INC.**

KNOW ALL MEN BY THESE PRESENTS, VICUS DEVELOPMENT, LLC, hereafter referred to as "Declarant", as owner of the hereinafter described real property, does hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring as owners any lot or parcel of land in the area and subdivision designated as Wildflower Ridge, Section 2, which is located in Ayden Township, Pitt County, North Carolina, and specifically shown on map of record in Map Book 86, Page 37 of the Pitt County Registry, said lots or parcels are hereby subjected to the following covenants and restrictions as to the use thereof, running with the land, by whomsoever owned, to wit:

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Ayden Township, Pitt County, North Carolina, which is more particularly described as follows:

Lying and being in the Ayden Township, Pitt County, North Carolina and being all of Wildflower Ridge, Section 2, as shown on map recorded in Map Book 86, Page 37 of the Pitt County Registry; being Lots 5 through 26 and Companion Lots 15A through 21A.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of

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same, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I TERMINOLOGY

Section 1: "Association" shall mean and refer to Wildflower Ridge Homeowner's Association, Inc., its successors and assigns.

Section 2: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of 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 3: "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Area" shall mean all real property (including the improvements thereto) owned by the Association to be reserved to the Association at the time of the conveyance of the first lot and as shown on the recorded plat.

Section 5: "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, if any and shall be known when platted as lots 5 through 26, and Companion Lots 15A through 21A.

Section 6: "Declarant" shall mean and refer to Vicus Development, LLC., its successors and assigns.

Section 7: "Member" shall mean and refer to every person or entity who holds membership, as a lot Owner, in the Association.

ARTICLE II

COMMON AREA

Section 1: Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2: Declaration of Use. Any owner may delegate his right of enjoyment to the Common Area and facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3: Transfer of Common Areas: The Declarant herein will convey to the Homeowners' Association listed herein, *the common areas as shown on the above-referenced plat, if any*, prior to the sale of the first lot out of DECLARANT to a third party. Declarant may also subsequently convey any other areas which may be hereinafter, be designated as "Common Areas" to the Homeowners' Association.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1: Every owner of a lot which is subject to assessment, as set forth in Article IV below, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Every member shall be subject to the By-Laws of the Association, whether currently of record or to be recorded in the Pitt County Register of Deeds Office. Every member shall subject to the By-Laws for the Association, whether currently of record or to be hereinafter recorded.

**ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1: **Creation of the Lien and Personal Obligation of Assessments.** The Declarant for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges to cover the expenses of the maintenance and repair or improvement of the common areas and facilities, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time of the assessment. Such assessment shall not pass to his successors in title unless expressly assumed by them. Assessments are to be paid to the Association as set forth in **ARTICLE 1, TERMINOLOGY, Section 1**, as set forth previously herein. In addition to the assessments set forth above, the owners of Lots 5 through 26 and Companion Lots 15A through 21A of Wildflower Ridge, Section 2, shall also be responsible for utility bills, **if any**, associated with the street lights which benefit this section of the subdivision. Lot owners shall pay their pro-rated portion of said bill on an annual basis, within 30 days of receiving said bill from the Homeowner's Association.

Section 2: **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, landscaping maintenance, the cost of repairs and maintenance,

electricity, replacements and additions, the cost of labor, equipment, materials management and supervision, the payment of taxes assessed against the Common Area, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Basis and Maximum of Annual Assessments. No assessments shall be made on any lot until the platted lot shall have been conveyed by deed. The maximum annual assessment shall be determined by the Declarant herein and/or by the Board of Directors for the Association.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington D.C.) from the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for the next succeeding two (2) years may be increased above that established by the Consumer Price Index formula by a vote of the members, and for each succeeding period of two (2) years thereafter, provided that any such change shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis authorized to participate under its Articles of Incorporation.

(c) The Board of Directors may fix an annual assessment at an amount not in excess of the maximum.

Section 4: Special Assessments for Capital Improvements. In addition to the

annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at the meeting duly called for this purpose.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3

and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Except as provided for Class B

members, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7: Date of Commencement of Annual Assessments and Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the lot to any owner unless decided otherwise by the Declarant or the Board of Directors for the Homeowners' Association. However, it is not the intent of the owners to assess any Lot during the construction phase. That is to say the initial lot owner who receives a deed from the Declarant shall not pay assessments until the initial owner receives a certificate of occupancy from the local governing authority. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of

each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessment and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen per cent per annum and shall constitute a lien on the lot. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape or deny liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 10: Exempt Property. All property dedicated to and accepted by, a local authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

COMMITTEES

The Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE VI USE RESTRICTIONS

1. These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of fifteen (15) years from the date of execution of this document, at which time said covenants shall be automatically extended for successive periods of fifteen (15) years unless by a vote of a majority of the then owners of the lots it is agreed to change said covenants in whole or in part. (A majority is considered to be fifty-one percent (51%) or more of the then owners of the lot. In order to change said covenants in whole or part prior to the above-referenced 15 year period, approval of seventy-five percent (75%) or more of the owners of the lots at the time of said change shall be required.)
2. If the undersigned or its successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation, except the party of the first part is specifically excluded from any liability for damages.
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other of the provisions, which shall remain in full force and effect.
4. No dwelling having less than 1600 square feet of heated living area shall be permitted on any lot. All houses are to be a minimum of 16" off of grade, either raised slab or crawl space, no slab on grad homes.
5. A property owner must obtain approval from Declarant, its heirs, successors and/ Or assigns, on house plans prior to construction. All approvals shall be in written form, either by a letter or email.
6. No structure shall be erected, placed or permitted to remain on any residential lot other than the one detached single-family dwelling not to exceed two and one-half stories in height and other outbuildings incident to the residential use of the lot.
7. No house shall be located on any residential building lot nearer than the minimum building lines. The minimum building lines shall be front, 30 feet side and rear 10 feet.

8. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
9. No structure of a temporary nature, including, but not limited to a trailer, mobile home, basement, tent, shack, garage, barn, or other outbuilding erected on the lot shall at any time be used as a residence, and no trailer or mobile home, tent, shack, barn or other outbuilding shall be permitted to exist on any lot; that this prohibition shall not exclude the use of a detached garage or other small outbuilding for storage or playroom use, properly constructed and located on a lot approved by Vicus Development, LLC prior to the erection; that travel trailers and motor homes shall not be excluded under this provision, provided that they are of the size and quality not to be offensive to the residential character of the neighborhood. PRIOR WRITTEN PERMISSION MUST BE OBTAINED IN WRITING FROM VICUS DEVELOPMENT, LLC OR ITS SUCCESSOR(S) PRIOR TO PLACING ANY TRAVEL TRAILER OR MOTOR HOMES IN THE SUBDIVISION.
10. Nothing herein contained shall be construed as imposing any covenants or restrictions on any property of the owners of this tract of land other than those properties to which these Restrictive Covenants specifically apply.
11. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat as above referred to. The easement area of each tract and all improvements in it shall be maintained continuously by the owner of the tract except for those improvements for which a public authority or utility company is responsible. Furthermore, an easement of five feet in width for the installation and maintenance of underground utilities and drainage is reserved along every front and side lot line and an easement of ten feet in width for the installation and maintenance of underground utilities and drainage is reserved along every rear lot line.
12. Following the installation of residential street lighting by means of mercury vapor or sodium vapor lighting units within the subdivision, any party or persons who may then own or who may hereinafter own, any interest in any lot within the subdivision, shall be obliged to pay to the Town of Ayden, North Carolina, the monthly rate per lot (plus applicable sales tax) as set forth in Electric Rate Schedule No. 4-A, entitled Rural Street Lighting Services, of the Utility Regulations of the Town of Ayden. The obligation to pay such a monthly rate, as it may change from time to time, shall continue until such time as the subdivision is annexed into the corporate limits of a city, town, or village, and responsibility for the costs of street lighting is assumed by, or transferred to, a governmental unit. Any and all mercury vapor or sodium vapor lighting units installed within the subdivision shall be and remain the property of the Town of Ayden. Installation of street lighting units and buildings and structures belonging to the owners of the lots within the subdivision or to others will not be permitted.

