

DECLARATION OF PROTECTIVE COVENANTS,
EASEMENTS AND RESTRICTIONS

THIS DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS made and entered into this 17th day of April, 1989, by BLUEWATER ASSOCIATES OF EMERALD ISLE, INC., a North Carolina Corporation with its principal place of business in Carteret County, North Carolina, party of the first part; and all future owners of property in the Bluewater Banks Subdivision, as the same is identified in that certain map or plat of said subdivision prepared by John P. McLean, RLS and recorded in Map Book 27, Page 41, Carteret County Registry, excepting and excluding that property shown and designated on the aforesaid map or plat as "Future Development" and lying north of NC State Road 1123.

W I T N E S S E T H:

THAT WHEREAS, the party of the first part is the owner of the lands shown and described on the map or plat of Bluewater Banks referenced hereinabove;

AND WHEREAS, it is the desire and purpose of the said party of the first part to develop said property into a residential community of such type and character as will make a desirable, attractive and healthful place in which to live and one in which the investment of property owners will be protected and, in general, to provide for a high type and quality of improvement for said subdivision and to insure the best use of the land to enhance its natural and scenic beauty;

NOW, THEREFORE, the said party of the first part does covenant and agree with all persons, firms and corporations hereinafter acquiring any of the lots of the property of the party of the first part hereinbefore referred to, that such lots are hereby subjected to the following restrictions as to the use thereof, running with said property, by whomsoever owned, to wit:

1. RESIDENTIAL USE ONLY. No lot shall be used except for residential purposes and no business or commercial activity shall be engaged in or conducted thereupon. No building other than a single family dwelling shall be erected or permitted to remain upon a lot, with the exception of a private garage not exceeding three (3) automobile capacity and conforming to the architectural style of the main dwelling house.

The lay of the lots as shown on the recorded map shall be adhered to and no lot or group of lots may be subdivided so as to provide a greater number of smaller lots; however, more than one lot may be used for the erection or placement of a residential structure subject to the conditions in Paragraph 4. below.

2. EASEMENTS. The party of the first part reserves an easement or right of way, which it at any time in the future, may use itself or grant to others, for the purpose of rights of way or easements for water and sewer pipes, television, telephone and electric light poles, wires and cables and all equipment necessary for the installation, use and maintenance of utilities, including water, sewerage, television, telephone and electricity. The said easement and/or right or way across and upon said lots shall be confined to a distance of not more than five (5) feet from the street property line.

3. ELECTRICAL SERVICE. This Declaration subjects the real property in this subdivision to a contract with Carteret-Craven Electrical Membership Corporation for the installation of underground electrical cables which may require an initial contribution and/or the installation of street lighting which

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will require a continuing monthly payment to Carteret-Craven Electrical Membership Corporation by the owner of each lot upon which a building has been erected.

4. DWELLING SIZE, LOCATION AND TYPE. No dwelling shall be permitted on any of the lots numbered Forty-four (44) through Sixty-five (65) in which the total heated floor area of the main structure is less than One Thousand Six Hundred Fifty (1650) square feet, exclusive of open porches and garages.

No dwelling shall be permitted on lots numbered Twenty-nine (29) through Forty-three (43) and lots numbered Sixty-six (66) through Sixty-eight (68) in which the total heated floor area of the main structure is less than One Thousand Five Hundred (1500) square feet, exclusive of open porches and garages.

No dwelling shall be permitted on lots numbered One (1) through Twenty-eight (28) in which the total heated floor area of the main structure is less than One Thousand Three Hundred Fifty (1350) square feet for dwellings with attached garages, and One Thousand Four Hundred (1400) square feet for dwellings without attached garages.

No dwelling or other structure excepting only a fence or wall which is constructed in compliance with the provisions of this paragraph shall be located on any lot which is at a location nearer to the boundary lines of said building lot than the following distances:

Front boundary line - Thirty (30) feet, unless otherwise indicated on the recorded map of the subdivision, the latter being controlling.

Back boundary line - Twenty-five (25) feet.

Side boundary line - Fifteen (15) feet.

Side boundary line on corner - Twenty-five (25) feet.

Where lot topography or other circumstances, in the sole discretion of the Declarant, warrant a change or waiver of the foregoing setback requirements, a lot owner may request from the Declarant in writing a waiver of said requirements and Declarant expressly reserves the right to grant and record a written waiver, provided that the adjoining property owner(s) affected by such waiver shall agree thereto. At such time as Declarant has conveyed to third parties seventy-five percent (75%) of the lots in Bluewater Banks Subdivision, its right to waive the setback requirements as aforesaid shall terminate as to Declarant and shall be transferred automatically to the Homeowners Association.

DEFINITIONS

Front boundary lines are defined as the boundary lines nearest the street.

Back boundary lines are defined as being the boundary lines opposite the front boundary line.

Side boundary lines are defined as being the two boundary lines other than the front and back boundary lines.

No flat top structures shall be erected or allowed to remain on any lot.

Exterior well-houses shall be allowed, so long as they do not exceed four feet by four feet (4' x 4') in size and are constructed of similar material to that of the main structure.

No solid fence or wall shall be erected or allowed to remain on any lot which is higher than five (5) feet above the general level of the ground, excepting lots numbered Forty-four (44) through Sixty-five (65) inclusive, upon which no solid fence or wall shall be erected or allowed to remain on any lot which is higher than three (3) feet above the general level of the ground. Notwithstanding the foregoing, no metal or solid fences of any

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kind shall be erected within the subdivision without the approval of the Declarant, if prior to establishment of the Owners Association, or of the Board of Directors of the Owners Association after same is established. Any lot owner who wishes to erect a fence shall submit to Declarant or to the Board of Directors, as the case may be, a general description of any proposed fence or wall with the signed consent and approval of the adjoining Owners. If Declarant or the Board of Directors has not responded to lot owner within thirty (30) days from receipt of said submission, approval shall be conclusively presumed.

No sign, billboard or advertising placard of any kind shall be erected or allowed to remain on any lot other than a "For Sale" or "For Rent" sign no larger than four square feet. However, an owner may identify his name and address in a dignified manner by a sign or placard no larger than four square feet.

It is specifically provided that no concrete blocks, either in buildings or walls, shall be used above finished ground elevation unless said blocks are covered with brick veneer, stone or stucco.

No trade materials or inventories may be stored out of doors upon the premises and no trucks larger than one ton, tractors or heavy equipment may be stored or regularly parked on the premises. Campers and recreational vehicles shall be allowed, so long as they are parked off the street and in an unobtrusive place on the lot.

No mobile homes, modular homes, or geodesic dome structures shall be located on, erected or permitted to remain on any lot; dwellings constructed from panelized or pre-built components are permitted.

The exterior of all structures located on, erected or permitted to remain on any lot shall be primarily neutral colors or natural materials.

5. NUISANCES. No noxious or offensive activity shall be carried on upon any lot; nor shall anything be done thereon which may become an annoyance to the neighborhood. No junk or abandoned automobiles, rubbish, waste matter, trash, debris or other types of unused material will be permitted on these premises. No trailers, habitable motor vehicles or boats shall be stored on the premises unless such storage is to the rear of the principal use structure or other inconspicuous location on the property.

6. TEMPORARY STRUCTURES. No structure of a temporary character, trailers, mobile homes, or habitable motor vehicles of any nature, basements, tents, shacks, garages, barns, or other out-buildings shall be used on any lot at any time as a residence, either temporarily or permanently. This Declaration further prohibits any use or location on a lot of such temporary structures not designed and constructed as an integral part of the main residential dwelling on a lot unless such is used during construction of a residence and only during that period, or is a garage which meets the specifications set out in Paragraph 1. hereinabove.

7. MAINTENANCE OF ROADS, DITCHES AND OTHER COMMON AREAS. The Declarant shall be responsible for maintaining the private subdivision roads, ditches, community pier and boat ramp, common areas around the lakes and other water bodies, parking and picnic area, entrance signs and lights, fencing and landscaping for an initial period of two (2) years from the conveyance of the first lot in the subdivision or until seventy-five percent (75%) of the subdivision lots are sold to third parties, whichever earlier occurs. At the occurrence of the foregoing, Declarant shall deed to the Owners Association the subdivision roads and other common areas and the said Owners Association shall assume full responsibility for maintenance and upkeep of same.

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8. BLUEWATER BANKS OWNERS ASSOCIATION, INC., On or before two (2) years from the date of the recording of this Declaration, an Owners Association shall be created and incorporated by the Declarant and it shall be mandatory for all owners of property in the subdivision to be members thereof. By accepting a Deed to a lot or lots in the subdivision, the Grantees automatically become members of the Association effective the date of its incorporation. Commencing November 1 of the year in which the Association is incorporated, each lot in the subdivision shall be assessed an annual fee of \$200.00 which shall be paid to the Association, such assessment to be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the residents of the subdivision, and in particular, for the improvement and maintenance of common properties, including but not limited to, the payment of taxes and insurance on common properties, repairs and replacements and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, and particularly the cost of maintenance of streets, drainage, park areas and other community facilities as determined by the Association. At the time of incorporation of the Association, Declarant shall forthwith deed the common areas of the subdivision, including the private streets, to the Association. After such time, Declarant shall pay assessments on lots owned in the subdivision. The amount of the annual assessment may be changed only upon a two-thirds vote of the members of the Association, each lot having one (1) vote.

The Association, upon a two-thirds vote of its membership shall have the right to levy special assessments in addition to the annual dues set out hereinabove.

All such assessments and dues shall be a debt of the Owner and a charge upon the land and shall be a continuing lien upon the property against which such assessments are made. The time for perfecting said liens shall be as established by the Association, but in no event more than 360 days from the due date of the charge for the assessment.

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 become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

The organization and functioning of the Association shall be established in the Articles of Incorporation and Bylaws.

9. ADDITIONAL PROPERTY. Declarant reserves the right but is not obligated to develop additional property owned by it and adjacent to the real property described in this Declaration and may at its election subject such additional property to this Declaration, in its present form or as amended.

10. IMPERVIOUS SURFACE RESTRICTIONS. No more than Eleven Thousand Four Hundred Sixty (11,460) square feet of any lot shall be covered by structures and/or paved surfaces, including walkways or patios or brick, stone, slate or similar materials. This covenant is intended to insure continued compliance with storm-water run-off rules adopted by the State of North Carolina and therefore benefits may be enforced by the State of North Carolina as well as by owners of lots in the subdivision. This covenant shall run with the land and shall be binding on all parties and all persons claiming under them.

11. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a term of twenty-five (25) years from the date these covenants are recorded, at which time said covenants shall be

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automatically extended for successive periods of ten (10) years unless an instrument signed by a three-fourths majority of the then owners of the lots has been recorded, agreeing to modify said covenants in whole or in part.

12. ENFORCEMENT. Enforcement shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violations or to recover damages or both. Such proceedings may be brought by any owner of lands within said subdivision. Enforcement shall include but not be limited to the right to seek removal or relocation of any violating structure or portion thereof.

13. SEVERABILITY. Invalidation of any of these covenants by judgment or by court shall in no wise affect any of the other provisions, and the same shall remain in full force and effect.

IN TESTIMONY WHEREOF, said party of the first part has hereunto cause this Declaration of Protective Covenants, Easements and Restrictions to be executed by its President and attested by its Secretary the day and year first above written.

BLUEWATER ASSOCIATES OF EMERALD ISLE, INC.

By Charles A. Hutcherson
President



Woody J. Warren
Secretary

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW

I, a Notary Public of the County and State aforesaid, certify that WOODY J. WARREN personally appeared before me this date and acknowledged that he is the Secretary of BLUEWATER ASSOCIATES OF EMERALD ISLE, INC., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by CHARLES A. HUTCHESON as its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official seal, this the 14th day of April, 1989.

Amelia E. Byrd
NOTARY PUBLIC



My Commission Expires: 2/24/1992

12:45

NORTH CAROLINA, CARTERET COUNTY
The foregoing certificate(s) of Cynthia E. Byrd
is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 608 Page 359
This 17 day of April 1989 at 12:45 O'clock P.M.

Sharon Piner
Register of Deeds
By Sharon Piner
Assistant, Deputy

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