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PREPARED BY: DENNIS M. MARQUARDT, ATTORNEY AT LAW

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

Melanie Arthur 35P  
Carteret County Register of Deeds  
JL Date 08/03/2000 Time 09:45:00  
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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR CAPE POINT

This Declaration of Covenants, Restrictions and Easements made and entered into this 27<sup>th</sup> day of July, 2000, by Bluewater Investors, Inc., a North Carolina Corporation, with its principal office in Carteret County, North Carolina, hereinafter called "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of a certain tract or parcel of land located in White Oak Township, Carteret County, North Carolina, hereinafter known as CAPE POINT Subdivision or "Subdivision", and containing approximately 30.83 acres, more or less, as the same is shown in that certain plat prepared by Prestige Land Surveying, P.A., dated June 19, 2000, prepared for Bluewater Investors, Inc., of record in Map Book 29, Page 783, Carteret County Registry (the "Plat"), which survey is incorporated herewith by reference as if fully set forth; and

WHEREAS, Declarant has caused to be prepared a plan of development wherein said property referred to hereinabove would be subject to the same Declaration of Covenants, Restrictions and

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Easements, and that these Covenants, Restrictions and Easements shall apply evenly and equally to all Lots developed in CAPE POINT Subdivision; and

WHEREAS, it is the stated intent of these Covenants, Restrictions, and Easements to promote the following, to-wit:

A. In order to ensure the best and highest possible land use, and the most appropriate development and improvements within the Subdivision;

B. To protect the Owners of the Subdivision Lots against any improper use that might impair or depreciate the value of their property and/or other Lots or property within the subdivision; and

C. To guard against poorly designed or proportioned structures and to ensure against structures being constructed of unsuitable or inferior building materials; and

D. To preserve within the plan or scheme of development, insofar as is practical or feasible, the natural beauty and aesthetic value of the Subdivision; and

E. To promote and ensure that harmonious color schemes exist; and further, in order to expressly forbid any radical, extremely unusual or "garish" color schemes from existing within said Subdivision; and

F. To encourage and secure construction or erection of attractive homes within said Subdivision, with uniform and

appropriate positioning of all homes on Lots, and to ensure that proper minimum side and front set-backs are maintained; and

G. To ensure that each individual Owner of each Lot shall have one (1 vote in the Association, and that each Lot shall be proportionally responsible for its share of maintenance of any roads, common areas or drainage easements within said Subdivision, said proportion to be determined as stated hereinafter and for those Lots involved, sewage easements and facilities maintenance and for those Lots involved, pier and boat slip maintenance ; and

H. In general, to provide a Subdivision or development for the Owners, wherein they remain assured that their interests will be protected, their investment protected, and that each individual property Owner shall be treated equally and fairly.

NOW, THEREFORE, for the mutual benefit of all Owners and purchasers of Lots within said Subdivision, the Declarant hereby declares that all the Lots shown and designated for development, as hereinafter set forth, shall be held, transferred, owned, sold and conveyed subject to the following Restrictive Covenants and Conditions, to-wit:

1. DEFINITIONS.

(a) "Association" shall mean and refer to CAPE POINT HOMEOWNERS' ASSOCIATION, INC., the association of Lot Owners of the CAPE POINT SUBDIVISION

(b) "Common Properties" shall mean and refer to all real property, together with all improvements located thereon, either owned by the Association for the common use and enjoyment of the Owners of Lots, or designated as "common areas" on any Subdivision plat of any portion of the properties. Provided, however, the boat slips shown on the Cape Point Subdivision map are not part of the common area on Deer Creek. The boat slips are individually owned.

(c) "Declarant" shall mean Bluewater Investors, Inc., a North Carolina Corporation, with its principal office in Carteret County, North Carolina, and their successors assigns to whom they shall make specific written assignment of their rights under the Declaration.

(d) "Lot" shall mean and refer to any numbered plot of land shown on any recorded Subdivision map of any portion of the properties, which numbered Lot is intended to be conveyed for the purpose of allowing construction thereof of a single family home.

(e) "Member" shall mean and refer to the Owner of any Lot within the Subdivision.

(f) "Owner" shall mean and refer to any person, corporation, partnership, association, trust or other legal entity, and any combination thereof who, or which, owns a Lot, including the Declarant, but excluding those having such interest merely as security for performance of an obligation.

(g) "Subdivision" shall mean and refer to all properties encompassed within the perimeter boundary lines of CAPE POINT Subdivision according to the plat thereof prepared by Prestige Land Surveying, P.A., dated June 19, 2000 record in Map Book 29, Page 783, Carteret County Registry.

2. CAPE POINT HOMEOWNERS' ASSOCIATION. INC. In order to further the interest of the Owners and for the efficient preservation of the land values in the Subdivision, the Declarant has caused a non-profit corporation to be created under the General Statutes of North Carolina.

(a) General Power of the Association. The Association shall have all general authority granted to a non-profit corporation organized under Chapter 55A of the North Carolina General Statutes.

(b) Specific Powers of the Association.

(i) to maintain and preserve the Common Properties of the Subdivision;

(ii) to maintain and preserve the streets within the Subdivision;

(iii) to maintain and preserve all walkways, docks and decks located on the Common Properties;

(iv) to enforce this Declaration of Covenants, Restriction and Easements;

(v) to collect and disburse the assessments and

charges set forth hereinafter and to file liens against the Lots for which dues, assessments and charges are delinquent and to foreclose the same as provided hereinafter.

(c) Membership. Each Owner of a Lot shall be a mandatory Member of the Association and such membership shall be appurtenant to and shall not be separated from the ownership of such Lot.

(d) Voting Rights. The Association shall have two classes of voting membership:

(i) Class A Members shall be Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an interest in a Lot as an Owner, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(ii) Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted into Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership; or

(b) on January 1, 2001.

3. PROPERTY RIGHTS IN COMMON PROPERTIES. The Common Properties are those designated on the recorded map of the Subdivision, and shall include all other properties, real and personal, as shall be conveyed to the Association in fee, or by easement, or demised to the Association by lease. Provided, however, those amenities including, but not limited to, swimming pool and clubhouse as shown on the recorded plat or described in any advertising will not be constructed by developer until such time as eighty percent (80%) of the lots in the subdivision are sold. Developer does reserve the right at developer's sole option, to construct some or all of such amenities prior to the sale of the prerequisite number of lots.

(a) Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Properties, on a non-exclusive basis, which right and easement shall be appurtenant to and shall pass with the title to every Lot; provided, however, the easements created hereunder shall be subject to the following:

(i) the right of the Association to establish reasonable rules and to charge reasonable fees for the use of the Common Properties, any such fees being charged being for the purpose of reimbursing the Association for the cost of maintenance, upkeep, and supervision of said Common Properties;

(ii) the right of the Association to suspend the right of any Owner to use the facilities located on the Common Properties for any period during which an assessment against such Owner's Lot remains unpaid for more than thirty (30) days from the date when due;

(iii) the right of the Association to suspend the right of any Owner to use the facilities located on the Common Properties for a period determined by the Board of Directors as a result of a continued infraction of the rules and regulations of the Association relating to the use and enjoyment of the Common Properties after notice thereof to Owner;

(iv) the right of the Association to suspend the right of any Owner to use the facilities located on the Common Properties for the purpose of improving or repairing the same; and

(v) the right of the Association to dedicate or transfer all of any part of the Common Properties to any public agency, authority, or utility for a public purpose.

An Owner shall have the right to delegate in accordance with the By-Laws of the Association such Owner's rights of enjoyment to the Common Properties to the members of such Owner's family, guests, tenants or contract purchasers; subject, however, to the general rules and regulations established from time to time by the Association, which rules may

specifically include a limitation on the total number of permitted users relative to any Lot.

(b) Maintenance of Common Properties. All maintenance, repairs, and replacements to the Common Properties, whether located inside or outside of the Lots (unless necessitated by the negligence, misuse or neglect of a Lot Owner, his guest, lessees, employees, servants or invitee, in which case such expense shall be charged to such Lot Owner), shall be made by the Board and shall be charged to all Lot Owners as a common expense of the Property.

The Association will have the duty to maintain the Common Properties in good condition and in compliance with all applicable laws, ordinances and regulations.

(c) Additional Maintenance Requirements Regarding Stormwater, Sedimentation and Erosion Control: The Subdivision is located on a promontory of land bordered on three sides by Deer Creek and Rocky Run Creek, the waters of which are integral to the value of the lots in the Subdivision. In addition to ordinary maintenance duties affecting such waters, there are State-approved plans for stormwater, sedimentation and erosion control with which the Association must comply in the Subdivision. The State may require modifications of those plans from time to time. Such plans require care by the Association in the maintenance, repair and replacement of drainage swayles and

ditches, and of earthen shoulders along paved areas, bulkheads and similar barriers and culverts.

In furtherance of the plans intended to avoid erosion and sedimentation, the Association will plant and maintain vegetative cover on all of the pervious and uncovered surfaces included in the Common Properties, and on any easements over pervious and uncovered surfaces referred to on the recorded maps of the Subdivision. As to pervious surfaces which are partially covered, such as the earth under slatted wooden ramps and walkways, the Association will provide and maintain retaining frameworks to prevent unnecessary erosion and discharge of sediment from such areas.

The Association will take the foregoing actions and such other actions as may be necessary from time to time to assure that the Subdivision is in compliance at all times with the foregoing requirements and with all other applicable laws, ordinances and regulations.

The owner of each lot will have the duty to maintain vegetative cover on the pervious land surface within such lot in order to prevent erosion and sediment discharge from the lot. Primary among such land surfaces on Lots 1 through 33 are the 40 foot setback areas on the creek side of those lots.

The Association will establish, maintain and enforce rules intended to assure due care to prevent erosion or

sedimentation caused by persons, vehicles or equipment engaged in maintenance or repair, or the construction or removal of improvements, or the delivery of goods, or the performance of other services within the subdivision.

The Association will establish, maintain and enforce rules intended to prevent the discharge or discarding from Lots 1 through 33 or any of the Common Properties, into either of the creeks adjoining the subdivision of spoils, construction and other debris, fertilizer, garbage, trash, cut grass and other remnants of vegetation, and of any chemicals hazardous to fish or other marine life.

Any construction, maintenance or repair bulkheads along the edges of the creeks adjoining the subdivision, will be planned and carried out in compliance with the applicable laws, ordinances and regulatory requirements, as well as the Association rules. The Association will endeavor to facilitate joint planning and construction of bulkheads to produce consistency, continuity and effectiveness. The Association will also establish, maintain and enforce rules to prevent erosion and sedimentation into the creeks resulting from inconsistencies in the configuration, location, specifications or durability of bulkheads.

The Association will assure that all driveways and other crossings of drainage swayles or ditches located on or

adjoining a street right of way in the subdivision, must utilize an appropriately designed and engineered culvert installed by the owner of the lot being served thereby. The duties and authorizations described in this paragraph 3(c) will not be subject to reduction by amendment of this Declaration.

(d) Use of Common Properties. The Common Properties shall be used only for the purposes for which they are intended in furnishing services and facilities for the enjoyment of the owners of the lots and others as provided in paragraph 3(a)(v) herein.

(e) Rules of Conduct. Rules and Regulations concerning the use of the Common Properties may be promulgated and amended by the Board. Copies of such Rules and Regulations shall be furnished by the Board to each Lot Owner, and all amendments and new Rules and Regulations shall be furnished to Lot Owners prior to the time that the amendment or new rule or regulation becomes effective.

(f) Utility Charges. All charges for utilities used in connection with the maintenance and use of the Common Properties shall be a common expense.

(g) Statement of Common Expenses. The Board of Directors shall promptly provide any Lot Owner, its grantee or contract purchaser making written request therefor, a written statement of all unpaid common expenses due from such Lot Owner.

4. RESERVATION OF TITLE TO COMMON PROPERTIES.

The Declarant may retain the legal title to the Common Properties until such time as it has completed improvements thereon, and until such time as, in the opinion of the Declarant, that the Association is able to maintain the same. However, Declarant will convey the Common Properties to the Association not later than January 1, 2001.

5. COVENANTS FOR DUES AND ASSESSMENTS. The Lots shall be assessed as follows:

(a) Creation of Lien and Personal Obligation of Assessment. The Declarant, for each Lot within the Subdivision, hereby covenants, and each subsequent purchaser of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association:

(i) annual assessments for the daily and routine operations of the Association and the establishment of reserve account

(ii) special assessments for capital improvements and unforeseen expenses;

(iii) other assessments specifically authorized by this Declaration.

As used in this Declaration, the term -shall include, as required by context, all annual assessments, special

assessments for capital improvements, dues or charges established by the Association. All such dues, assessments or charges will be established and collected as hereinafter provided. The annual assessments, dues or charges, and special assessments, together with the interests 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 be a charge on each Lot conveyed by Declarant, 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 when the assessment against the Lot was made. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them; however, said delinquent assessments shall continue as a lien against the Lot until paid.

(b) Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and residents within the Subdivision, and for the improvement and maintenance of the Common Properties, and for the operation of the Association,

(c) Maximum Annual Assessment. Annual assessment, dues and charges shall be as follows:

(i) The initial maximum annual assessment shall be \$250.00 per Lot. The annual assessment may be increased thereafter without a vote of the membership by an amount not to exceed five percent (5%) above the maximum assessment for the previous year.

(ii) the Board of Directors of the Association may fix the annual assessments, dues or annual charges, at an amount not in excess of the maximum annual assessment and the percentage increases enumerated in this Declaration. Notwithstanding, however, the Association may call a meeting for the purpose of increasing or decreasing the maximum annual assessment and the same shall be determined by a vote in person or by proxy at a meeting duly called for this purpose of two-thirds of all possible voters of the Association.

(iii) In addition to the foregoing annual assessment, those lots requiring off site sewer systems shall have an initial annual assessment of \$225.00. The Association shall be responsible for the replacement, repair, maintenance and upkeep of the sewer systems and easements and is specifically authorized to levy such assessment and to increase or decrease the annual assessment as necessary to maintain said system and to make such special assessments as necessary to maintain said systems. In

addition to the remedies for collection provided, the Association may cause any lot on which these sewer system assessments are delinquent to be disconnected from said system.

(iv) Lot owners assigned or conveyed a boat slip in the harbor with the Lot shall be responsible for the repair, replacement, maintenance and upkeep of the piers in the harbor. In the event the boat slip owners fail to make the necessary pier replacements, repairs, maintenance and upkeep, the Association may at its option do so and assess the boat slip owners. Boat Slips conveyed with Lots 34 through 42 shall be an appurtenance to the lot and may not be leased to, rented to or used by anyone other than the lot owner nor may the boat slip be conveyed separately from the lot but shall be transferred as an appurtenance to the lot when the lot is sold or otherwise transferred or conveyed.

(d) Special Assessment 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 only 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 Properties, including fixtures and personal property related thereto, provided that any such assessment shall have the assent to two-thirds of the vote or each class of

Members who are voting in person or by proxy at a meeting duly called for this purpose.

(e) Notice and Quorum for Action of the Association. Written notice of any meeting called for the purpose of taking any action authorized pursuant to these Covenants, Restrictions and Easements for CAPE POINT Subdivision shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(f) Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected not less frequently than annually at the direction of the Board of Directors of the Association. The assessments provided for in paragraphs 5.(c)(iii) and (iv) shall be uniform for each Lot assessed thereunder.

(g) Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall be

in the amounts as enumerated herein in Paragraph 5.(c) and shall commence January 1, 2001. The Board of Directors shall fix the amount of the annual assessment 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 date shall be established by the Board of Directors 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 the Lot is binding upon the Association as of the date of its issuance.

(h) Effect of Non-Payment of Assessments 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 rate of twelve (12%) percent per annum. Any assessment not so paid shall be a lien against the assessed Lot and the Association, as evidence of said lien, may file a claim of lien in the Office of the Clerk of Superior Court of Carteret County, and may thereafter bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien by action against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

(i) Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of any Lot shall not affect the assessment of the lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or proceeding in lieu thereof, shall extinguish the lien of 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 lien thereof.

(j) Declarant's Exemption. Until Declarant has conveyed eighty (80%) percent of the Lots within the Subdivision, the Lots owned by Declarant shall not be subject to assessments, with the following exceptions:

(i) Should Declarant cause a dwelling to be constructed on any Lot owned by Declarant and thereafter lease the same, said Lot shall be assessed as any other non-Declarant Owner.

(ii) After Declarant has conveyed eighty percent (80%) of the Lots within the Subdivision, Declarant's remaining Lots will be assessed as any other non-Declarant Lot.

6. ARCHITECTURAL CONTROL. Development and construction within the Subdivision shall be controlled as follows:

(a) The Declarant shall establish an Architectural

Control Committee ("Committee") which shall consist of three (3) Members. The Committee shall, upon recordation of this Declaration, be composed of the following Members for the term ending June 1, 2001, or until their earlier resignation:  
Woodrow J. Warren, P. Sherrell Futral and H. Jack Pruitt

Upon the expiration of the term of each initial Member of the Committee, a successor Member shall be appointed by the Board of Directors of the Association to serve for a two year term and each successor thereafter shall be appointed by the Board of Directors of the Association to serve for a two (2) term.

However, should any Member of the initial Committee resign prior to the expiration of his term, the Declarant shall have the right to name a successor, to fill said unexpired term.

The Board of Directors of the Association shall have the right to remove, with or without cause, any Member of Committee appointed by such Board. Except as listed in preceding paragraph, the Board of Directors of the Association shall also have the right to appoint a successor Member to fill a vacancy on the Committee created by the death, resignation or removal of a Member appointed by the Board to serve for unexpired term of such Member.

(b) Purpose. The Committee shall regulate external

design, appearance, landscaping, color, use, location and maintenance of the property subject to this Declaration and of the improvements located thereon in such a manner so as to preserve and enhance property values and to maintain a harmonious relationship among all structures and the natural vegetation and topography. In addition, the Committee shall attempt to minimize intrusions on the view and the privacy of other Owners, and shall attempt to insure compliance with all conditions of this Declaration, and of all backs, easements, and other restrictions as shown on the Plat.

(c) Procedure. Two (2) copies of the complete set of elevations, plans and specifications, including landscaping plans, describing any improvement, alteration, repair, or other requiring approval of the Committee, shall be submitted to the Committee, at the place or address designated by the Association, at least thirty (30) days prior to application for a building permit, or before construction is actually scheduled to begin, whichever is the earlier event. The Committee shall either approve or disapprove the proposed work in writing within thirty (30) days of the receipt of said plans and specifications. If the Committee disapproves the proposed work, the Committee shall state reasons for such disapproval in the written notification. In the event the Committee fails to approve or disapprove in writing any proposed work within said fifty (30) day period,

approval shall be deemed granted. An applicant shall have the right to appeal within thirty (30) days an adverse decision of the Committee to the Board of Directors of the Association who may reverse or modify such decision by a two-thirds (2/3) vote of the directors present at a duly called meeting.

(d) Required Approval. No improvements, alterations, repairs, or excavations, nor any maintenance which requires or would result in a change in appearance (such as a change of color), or any other activity which would noticeably and visibly change the exterior appearance of a house or a Lot, or any improvement located thereon, shall be made or done without the prior approval of Committee. No building, fence, wall, residence, dock, pier, gazebo, or other structure shall be commenced, erected, maintained, improved, altered or otherwise modified, without the prior approval of the committee, upon compliance with the procedures for approval as set out in subparagraph (c) of this Paragraph 6. Lot owners must acquire CAMA permit approval prior to any development.

(e) Deposit. A One Thousand and 00/100 (\$1,000.00) Dollar deposit shall be required by any Owner or agent at the time of submitting plans for approval. This is a security deposit to cover any damage caused by the contractor and/or its agents and the same shall be refunded upon the total completion of construction as long as the Committee considers there to be no

damage to the property.

7. MINIMUM DESIGN REQUIREMENTS.

(a) The following minimum requirements must be met by each dwelling within the Subdivision and may not be varied or waived by the Architectural Control Committee:

(i) All homes within the Subdivision shall be single family residences with a minimum constructed dwelling size of 1,700 square feet of heated space for Lots 1 and Lots 30 through 42; 1,800 square feet of heated space for Lots 2 through 6 and Lots 22 through 29; and 2,000 square feet of heated space for Lots 7 through 21. Notwithstanding the above, the Architectural Control Committee may alter or amend the minimum constructed dwelling size on any Lot if it deems the same to be desirable in light of that particular Lot's unique quality. Additionally, the minimum constructed dwelling size does not include any garage, heated or non-heated.

(ii) Setback requirements for the construction of any single family home shall be as shown on the recorded Plat, the Lots thereon having been made subject to this Declaration. In addition, no part of any structure of any kind shall be erected or permitted to remain on any Lot closer to the property line than forty (40') feet on the front (being any road) side, forty (40') feet on the back or rear Lot line, and ten (10') feet on either side Lot line, except in corner Lots. For corner Lots,

there shall be a twenty (20') foot setback requirement from any side street. Driveways shall not be included within this setback requirement.

(iii) No structure shall be erected or permitted to remain on any Lot, any part of which (excepting chimneys or flue stacks, vent pipes, or approved antenna) that exceed residential building height limitations of the Cape Carteret, North Carolina zoning ordinances and building regulations. All ordinances and regulations of the Town of Cape Carteret must be followed.

(iv) Each Owner shall be an insurer on behalf of their employees, contractors, subcontractors and material suppliers to the Declarant and to the Association for any damage to roads or to any other Common Properties caused by the passage of vehicles and equipment over the roads in the Subdivision, or by any other activity associated with construction on Lots within the Subdivision. Notwithstanding the deposit required as set forth in Paragraph 6. (e), in the event of any damage, the Association shall have the authority to repair such damage and assess the cost of such repairs to the Owner, which assessment shall become a lien on the property, just as other assessments are a lien, as set out in Paragraph 5. (a) of this Declaration.

(v) Concrete blocks or cinder blocks exposed after completion of construction and visible from any street, or

surrounding properties, shall not be permitted. (Concrete blocks or cinder blocks covered with heavy stucco will be permitted as long as the outlines of individual blocks are not visible through the stucco.)

(vi) All dwellings main roof must have a minimum slope of at least 7 feet of rise for every 12 feet of run.

(b) All dwellings will be constructed with a minimum of an attached two (2) car garage. One (1) additional detached garage/storage area of at least 400 square feet may be constructed provided all setback requirements are met and construction must be in a matching architectural style as the dwelling. This detached building will be subject to the approval of the Architectural Control Committee.

(c) The allowable built-upon area per lot for Lot Nos. 1-4, 6, 8-15 and 18-42 shall be 6,210 sq. ft.; Lot Nos. 5 and 7 shall be 10,000 sq. ft. and Lot Nos. 16 and 17 shall be 8,000 sq. ft.; inclusive of right of way, structures, pavement, walkways or patios of brick, stone or slate, not including wood decking.

8. RESTRICTIONS AS TO USE. All Lots within the Subdivision are subject to the following:

(a) Residential Use. All Lots shall be used, improved and devoted exclusively for residential use, Nothing contained herein, however, shall be deemed to prevent an Owner from leasing

a residence to a single family for residential use for a minimum lease period of one (1) month. No weekly rentals will be allowed.

(b) Prohibited Structures. No structure shall be erected, placed or permitted to remain on any Lot of a temporary nature, nor any mobile home, trailer, tent, shack, animal kennel, barn, temporary storage building, or other outbuilding shall be erected or placed on any Lot covered by these covenants. This paragraph shall not preclude permanent garage and/or storage facilities consistent with the restrictions contained in Paragraph 7.(b). This paragraph shall also not preclude temporary storage facilities for the sole purpose of protecting materials during construction of a dwelling on a Lot for a time not to exceed one (1) year; provided, however, that said temporary storage facility shall be removed from the Lot upon completion of construction.

(c) Nuisances. No noxious, illegal, or offensive activities shall be carried on or perpetrated upon any Lot, nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the Owners.

(d) Animals. No animals, livestock, nor poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that household pets may be kept provided that they are not kept for breeding or commercial purposes. Any such household pet shall not be allowed off the Lot of the Owner of said pet unless

said pet is attended by a person of sufficient age to supervise the conduct of said pet, and unless said pet is on a leash attached to the animal's collar, and held by said attendant Owner

(e) Garbage and Trash Receptacles. No Lot shall be used as a dumping ground for rubbish, trash or garbage. All garbage cans and trash receptacles shall be common in design as designated and determined by the Architectural Control Committee. All receptacles shall be kept in an enclosed area of the residence, garage and/or storage area except on such day of the week as the garbage is collected. The collection of garbage shall be the function of each individual Lot Owner and not the function of the Association unless the same is modified by the Association at a duly called meeting for such purpose.

(f) Exterior Lights. All light bulbs and other lights installed in any fixture located on the exterior of any dwelling building or dock shall be clear, white, or nonfrost lights or bulbs. Any outdoor lighting must be shielded so as to cast no direct light upon adjacent neighbors.

(g) Signs. No sign, billboard, or other advertising of any kind, including a "For Rent" sign, shall be erected or maintained on any Lot, right of way or Common Property except for directional signs, street identification signs, and other like signs approved and erected by the Association. It is permissible for an Owner or its agent to erect on any Lot a "For Sale" and/or

"Construction" sign designating the job site and builder, but these signs must be sandblasted and must be immediately removed upon the sale of the residence and/or final completion of such construction. Final completion shall be deemed the issuance of a certificate of occupancy.

(h) Antenna. There shall be no exterior antenna of any kind receiving and/or sending television, radio or other signals unless the same have first been approved by the Committee.

(i) Driveways. All driveways constructed on any Lot shall be paved with either asphalt, concrete and/or brick pavers and, to the extent said driveway covers any drainage ditch or easement, the size and composition of the drainage tile under said driveway shall be approved by the Committee.

(j) Vehicles. No stripped, partially wrecked, junked or inoperative motor vehicle, nor any part thereof, shall be permitted to be parked or kept on any street or Lot. No Owner shall cause any vehicle repairs, other than minor repairs which may be accomplished in a single day, to be performed on any portion of the property subject to this Declaration, including any property made subject to this Declaration.

(k) Clotheslines. No drying of laundry or clotheslines for any purpose shall be permitted on any Owner's Lot.

(l) Boats, Campers. No boat, jet ski, camper, trailer,

recreational vehicle, or other similar personal property will be allowed to be stored within the Subdivision unless the same is kept in the enclosed garage and/or storage area.

(m) Shingles. All shingles used in the construction of any residence and/or garage storage area shall be of architectural design and must be approved by the Architectural Control Committee; it being understood and agreed that only three (3) colors will be allowed in the Subdivision.

(n) Mailboxes. All mailboxes shall be common in design as designated and determined by the Architectural Control Committee.

(o) Maintenance of Lots. All Lots shall be appropriately groomed and maintained, including both developed and undeveloped Lots. Customary lawn mowing and tree and shrub maintenance is required. Any violation of this restriction shall entitle the Association to maintain the Lot and charge to the Lot Owner such expense and enforce the same consistent with the provisions herein regarding liens.

(p) Prohibited Vehicles. No off-road vehicles, including but not limited to, go-carts, dirt bikes, mini-bikes, ATVs (2 wheel or 4 wheel) or powerized scooters may be operated in the subdivision. Bicycles and golf carts may be used in the subdivision.

(q) No above-ground tanks will be permitted.

(r) Any exterior air conditioning, heating equipment or any

other mechanical equipment must be screened from public view by a screening material or shrubbery (sufficient in height when planted).

(s) The potable water supply for the subdivision shall be obtained from West Carteret Water Corporation, its successors and assigns ("WCWC"). Every owner of a subdivision lot shall be required to connect to and purchase the potable water supply for such lot from WCWC, its successors and assigns, so long as such utility service is available, for each and every residence constructed on or occupying such lot. At such time as a building permit has been issued for the construction and/or placement of any residential structure on a lot, the owner(s) of said lot shall within thirty (30) days thereafter, arrange for and execute all easements and other documents required in order to connect to and purchase water service from WCWC. Thereafter, such owner(s) shall be required to connect such residential structure to the WCWC meter that serves such lot and thereafter use and continue to use and to pay for the residential water provided by WCWC.

Nothing herein shall prohibit a lot owner with the consent of the Association, or the Association, from having a well for landscaping, gardening and lawn sprinkling needs; provided, however that no person shall make or use any connection that could provide well water to a residence or other point at which potable water is required.

The duties and authorizations described in this paragraph 8(s) will not be subject to reduction by amendment of this Declaration.

9. EASEMENTS AND ASSESSMENTS FOR STREET LIGHTING.

(a) The Declarant reserves the right to grant easements for purposes of installing and maintaining utilities to any or all of the Lots, including but not limited to, electricity, telephone, water, sewer and television. These easements may be either above ground or underground and may be assigned without limit to any proper utility company. Also reserved by Declarant is the right to grant such easement over Common Properties for purposes of installation and maintenance of utility easements. The easements shall be ten (10') feet in width over the Lots adjoining the street boundary line and shall be five (5') feet in width over the Lots along every other boundary line. The easements over Common Properties shall be located at the discretion of Declarant.

(b) The Association will pay the electric bills for specific lighting requirements billed to it, with the cost thereof being satisfied from dues and assessments.

(c) This declaration subjects the real property in this subdivision to a contract with Carteret-Craven Electric Membership Corporation for the installation of underground electrical utility which may require an initial contribution

and/or the installation of street lighting, which will subject the owner to a continuing monthly payment to CCEC.

(d) There is also granted an easement for purposes of ingress and egress to the common area located on Deer Creek between Lots 17 and 18, Cape Point Subdivision, across that portion of Lot 17 approximately 30 feet in width as shown on the map of Cape Point Subdivision and referenced thereon as Note 14.

This easement is solely for the purposes of ingress and regress for said common area and no motor vehicles or other personal property may be parked in said easement area nor property left in said easement area.

This easement is limited to Cape Point lot owners, their family, guests, tenants or contract buyers.

(e) Declarant reserves the right to grant such easements as in Declarant's sole discretion are necessary for the installation, maintenance, upkeep, repair and replacement of pipes, pumps and any other equipment or materials for septic tank effluent lines and equipment to off site nitrification fields for Lots 8, 9 and 12 - 17 inclusive in Cape Point Subdivision; said easements may cross any properties in the subdivision.

10. GENERAL PROVISIONS. This Declaration is subject to the following:

(a) Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce by any proceeding at

law or in equity all restrictions, conditions, covenants, reservation, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

(c) Duration. The covenants, restrictions and easements set forth herein shall run with and bind any property made subject hereto for a term of twenty (20) years from the date of this Declaration, after which time this Declaration shall be automatically extended for successive ten (10) year periods unless either terminated or modified by a majority vote of the then record Owners of all Lots subject to this Declaration.

(d) Amendment. This Declaration may be amended at any time by the affirmative vote of the voting Members having at least sixty-seven (67%) percent of the aggregate voting interest, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws. The Declarant, or its successors and assigns, reserves the right to amend this Declaration for the sole purpose of correcting any scrivener's

errors contained herein without joinder of any Owner. No amendment, however, shall affect the voting rights of any Owner owning a Lot made subject to this Declaration. Such amendment shall be executed in the name of the Association and recorded in the office of the Register of Deeds of Carteret County. No such amendment shall be effective until duly recorded as aforesaid

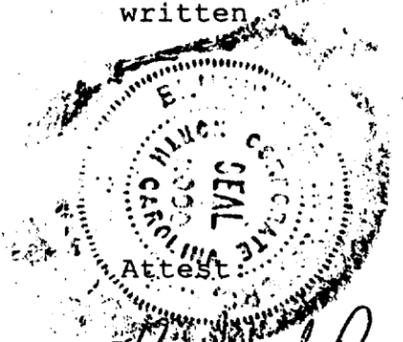
(e) Captions. The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this instrument.

(f) Construction. Whenever the context so required, the use herein of any gender shall be deemed to include all genders, and the use herein of the singular shall include the plural and the plural shall include the singular.

IN WITNESS WHEREOF, the undersigned have signed and sealed this instrument as of the day and year first above written

BLUEWATER INVESTORS, INC.

By: William J. Warner  
President

  
Attest:  
H. Jack Pruitt  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF Carteret

I, a Notary Public of the county and state aforesaid, do hereby certify that H. Jack Pruitt personally came before me this day and acknowledged that he is secretary of BLUEWATER INVESTORS, INC., a North Carolina 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, sealed with its corporate seal, and attested by himself as its                      secretary.

Witness my hand and official seal, this the 27<sup>th</sup> day of July, 2000.

[Signature]  
Notary Public



NORTH CAROLINA, CARTERET COUNTY  
The foregoing certificate(s) of Notary Public(s) is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Melanie Arthur, Register of Deeds  
By [Signature]  
Asst. Deputy Register of Deeds