

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS OF BLAIR POINTE SUBDIVISION**

THIS DECLARATION, made this the 6th day of September, 1997, by Blair Pointe LLC, a North Carolina limited liability company doing business in Carteret County ("Declarant);

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real property (the "Property") which is more particularly shown and described on that certain subdivision map of Blair Pointe recorded in Map Book 29 at Pages 181, 182 & 183 In the office of the Register of Deeds of Carteret County, North Carolina, (the "Subdivision") reference to said map being hereby specifically made for a description of the Property; and,

WHEREAS, Declarant proposes to develop the Property and to sell and convey the Lots shown on the aforesaid map to be used for single-family residential purposes; and,

WHEREAS, prior to selling and conveying the Lots, Declarant desires to provide for the preservation of the completed Subdivision as a single-family residential community, and for the enhancement of the value and opportunities of the community through roads, walkways, utilities and other amenities, and through the maintenance and management of the Subdivision by the owners thereof, and to those ends desires to subject the Property to certain easements, and to certain covenants, conditions and restrictions, for the benefit of the Subdivision and each of the owners thereof; and,

WHEREAS, to facilitate the foregoing Declarant has or will have established a North Carolina nonprofit corporation to serve perpetually as the association of all the owners of Lots In the Subdivision and as the holder of title to the common areas of the Subdivision and as the manager of its business and financial affairs,

NOW, THEREFORE, Declarant hereby declares that all of the numbered Lots shown on the map of Blair Pointe recorded in Map Book 29 at Pages 41-42 in the office of the Register of Deeds of Carteret County, North Carolina, and the additional property shown on said map within the boundaries of said Subdivision are now held and shall hereafter be held, conveyed, encumbered, leased, occupied and improved subject to the provisions of this Declaration and the North Carolina Planned Unit Development Act.

**ARTICLE I- DEFINITIONS AS USED HEREIN**

- A. 'Act" refers to the North Carolina Planned Unit Development Act.
- B. 'Articles" refers to the Articles of Organization of Blair Pointe LLC.
- C. "Association' refers to Blair Pointe Owners Association, a North Carolina nonprofit corporation.
- D. "Board of Directors' or 'Board' refers to the elected body governing and managing the affairs of the Association.
- E. 'Bylaws' refers to the bylaws of the Association.
- F. 'Committee' refers to the Architectural Standards Committee of the Association.
- G. 'Common Area(s)' refers to the property in the Subdivision other than the Lots; and any property outside of the Subdivision in which the Association obtains any interest or right, permanently or from time to time.
- H. 'Common Expenses" means and includes the actual and estimated expenses of maintaining the Common Area(s) and managing the Association. including without limitation any reserves established by the Association.
- I. 'Declarant' refers to Blair Pointe LLC.
- J. 'Limited Common Area(s)' refers to any Common Area(s) designated by the Declarant for the use or benefit of less than all Owners.
- K. 'Limited Common Area Expense(s)' refers to an expense attributable to a Limited Common Area.
- L. 'Lot(s)' means either (I) one of the numbered lots shown on the Subdivision map, or (if) when applicable, the modified lot(s) produced when adjoining Lot owners combine all or part of one Lot with all or part of another Lot, and a map thereof has been duly recorded, as herein provided.
- M. "Owner(s)' refers to the owner(s) of record of one or more of the Lots.
- N. 'Subdivision' and 'Subdivision map' refer to Blair Pointe Phase One and the map thereof identified above.
- O. 'Membership" means all of the members of the Association entitled to vote.
- P. 'Rules' refers to the Association's rules and regulations governing the use of the Subdivision.
- Q. 'Improvement(s)' refers to: dwellings, garages, porches, patios, docks, below ground pools, drains, driveways, enclosures, equipment, fences, fixtures, poles, signs, walkways, walls and all other forms of structures built, placed or installed on any part of any Lot or on any body of water adjoining a Lot; hedges, trees and other large plantings; excavations, site preparations and changes in slopes or grades; and any addition to, or modification or replacement of any Improvement(s).
- R. 'Standard(s)' means the architectural standards governing Improvements.

## **ARTICLE II - COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS**

- A. All of the Lots and Common Areas are and will be held, conveyed, encumbered, leased, rented, occupied, used and improved subject to the covenants, conditions, easements and restrictions contained in this Declaration.
- B. All of the covenants, conditions, easements and restrictions contained in this Declaration shall run with the land and be binding upon all persons and entities having or acquiring any right, title or interest in and to the same or any part thereof, and to all of their heirs, successors, assigns, executors and other personal and legal representatives.
- C. Each person and each entity that owns any Lot or any interest in any Lot covenants to abide by all of the provisions of this Declaration applicable to such Lot or Owner, and to enforce same upon all other persons and entities that lease, rent, occupy or use such Lot, or Improve or repair improvements on such lot, or use any Common Area as a guest of such Owner.

## **ARTICLE III - BLAIR POINTE OWNERS ASSOCIATION, INC.**

- A. A nonprofit, North Carolina corporation, Blair Pointe Owners Association, Inc. (the "Association") has been formed pursuant to the rules and requirements of the North Carolina Nonprofit Corporation Act as the association of all the Owners. The purposes of the Association are: to hold title to the Common Areas For the benefit of all Owners; and to manage and maintain the Common Areas; and to enforce the provisions of this Declaration and the Bylaws, and to promulgate and enforce the Rules, and the Architectural Standards governing the quality and appearance of the improvements in the Subdivision.
- B. Each of the Owners, by the acceptance of any right, title or Interest in a Lot, covenants and agrees with respect to the Association:
1. To perform all acts necessary to remain In good and current standing as a member of the Association;
  2. To comply herewith and with the Rules and to enforce such compliance upon the Owner's guests, Invitees, contractors, servants and tenants;
  3. To pay all assessments, whether general or special, levied by the Association in accordance with this Declaration, which sums shall be a lien upon each Lot against which such assessment was levied and shall also be he personal obligation of each of the Owners of such Lot.
- C. Each membership In the Association shall have a unity of interest with an individual Lot and may not be separated From the ownership of said Lot.
- D. The Association shall have one class of members, which shall be all of the Owners. Each Lot's ownership (however many persons that may be) shall be entitled to one vote. When two or more persons own a Lot, they are joint members and their vote shall be cast, or not cast, as they, among themselves determine, but in no event shall more than one vote or any Fraction of a vote be cast for any Lot.
- E. The Association will be governed by a Board of Directors of five persons elected annually by a majority of the Membership.

## **ARTICLE IV - MAINTENANCE, MANAGEMENT AND FINANCIAL OBLIGATIONS OF OWNERS**

- A. Maintenance and Management Duty of Association. The management and maintenance of the Common Areas and the management of the Association shall be solely the responsibility of the Association. The management shall be carried out in accordance with the terms and conditions of this Declaration and the Bylaws, but may be delegated to a professional manager provided that the contract with any such manager is terminable upon not more than thirty days notice. In addition to its other maintenance duties, the Association will assure that the Subdivision streets and storm water drainage system is inspected monthly, and after every runoff producing rainfall event, to ascertain that they are free or are rendered free of any debris, trash or foreign objects that could interfere with the free flow of water.
- B. Common Expenses. The Common Expenses of the Subdivision are:
1. Indebtedness and expenses for: (a) maintenance, improvements, repairs and replacements of Common Areas; (b) insuring the Subdivision, the Common Areas, the Architectural Standards Committee members, Board members, and the Association against hazards and liabilities for which they are customarily Insured and insurable; (c) otherwise protecting or enhancing the Subdivision or the Association; and (d) enforcing, reviewing, or modifying the provisions of this Declaration, the rulings of the

Architectural Standards Committee, the Bylaws, and the Rules.

2. Indebtedness and expenses incurred by the Board or the Committee in good faith to perform any duty or exercise any discretion required or allowed by this Declaration, the Bylaws or Rules.

3. Indebtedness and expenses applicable to all Owners in accordance with resolutions duly adopted by the Membership.

4. Taxes and assessments which are levied against the Association or upon the Common Area(s) by any governmental authority.

C. Annual General Assessment. Funding for the Common Expenses will be provided by the Owners through an annual general assessment.

1. Each Lot will be assessed 1/33rd of the total General Assessment.

2. No indebtedness or expense incurred with respect to Limited Common Area(s) will be assessed except against the Lots which derive the use and benefit thereof.

3. The Board will determine the date(s) when payment of the General Assessment is due.

4. The Declarant will have paid all of the General Assessment for the period ending December 31, 1997. The General Assessment for the calendar year 1998 will be \$ 400.00 per Lot per year. The General Assessments for years after 1998 will be determined as hereinafter provided.

5. The Board will prepare a Common Expenses budget each year for the next year, together with its calculation of the General Assessment for the next year, which will be published and distributed to all members at least ten calendar days prior to the annual meeting of the Association.

6. If the General Assessment calculated and published by the Board for the year following is less than 20% more than the General Assessment for the current year, the calculation of the Board will be final and may not be decreased by the members voting in person or by proxy at the annual meeting; provided, however, that to any extent that frivolous expenses, or other expenses that clearly must be financed by Special Assessment, have been included in the budget on which the Board's General Assessment calculation was made, then upon a vote of a majority of the Membership at the annual meeting or any continued session thereof, in person or by proxy, such frivolous and other expenses will be voted upon separately as a Special Assessment and the General Assessment will be recalculated by the Board to omit the Funding of such expenses.

7. If the General Assessment calculated and published by the Board for the year following is 20% or more greater than the General Assessment for the current year, then: (i) upon the vote of a majority of the Membership at the annual meeting or any continued session thereof, in person or by proxy, the Board's calculation of the following year's General Assessment may be reduced by resolution stating with particularity the specific budget Items being reduced, which Items will then be voted upon separately as Special Assessments and the Board will modify the General Assessment accordingly; and (ii) if no such majority vote of the Membership is had, a lesser majority, namely a majority of the members voting in person or by proxy may continue the annual meeting to a time certain not longer than fourteen days thereafter, for the purpose of allowing a proxy solicitation or other communication with the Membership regarding the question of the coming year's General Assessment, and at such continued session of the annual meeting, If a majority of the Membership voting in person or by proxy does not vote to reduce budget items as provided for in sub item (i) above, then the General Assessment as proposed by the Board will be final. If it appears at any time that the paucity of a proposed General Assessment will result in a material failure to maintain or insure the Common Area, or to otherwise enforce this declaration, the Bylaws, Rules or Standards, to the detriment of the Subdivision or one or more of the Owners, the Board on behalf of such aggrieved Owners, or any such aggrieved Owners themselves if the Board fails to act, may seek temporary and permanent relief from such detriment through an arbitration to be conducted in Carteret, Craven or Onslow county by an arbitrator who has been mutually approved by all parties. If no such arbitrator is agreed upon, either party may petition the Clerk of Court of Carteret County to appoint such an arbitrator. If such an arbitration is proceeded with by one or more Owners due to a failure of the Board to act, the Board will provide such Owners, upon written request, whatever records and documents the Association possesses or controls that the Owners or their attorney reasonably requests.

D. Special Expenses Defined. Special Expenses are the Indebtedness or expenses Incurred for the following purposes:

1. In emergencies, to preserve or protect any persons, or any Common Area(s) or other property in the Subdivision.

2. To fund shortfalls in duly approved Common Expenses.

3. To establish reserves duly approved by resolution of the Membership.

4. To establish, maintain and improve Limited Common Areas.

E. Special Expense Assessments. The Board of Directors may levy and impose Special Assessments for any of the purposes described in Section D., or for fines for violation of this Declaration, Bylaws or Rules, upon a majority vote of all Board members; provided that no Special Assessment may be promulgated by the Board to fund a shortfall in a budgetary item that was disapproved by the Membership pursuant to the provisions of Article 5C. Special Assessments will be the personal obligation of the Owners of the Lots against which the assessments are made, and will have the same lien and priorities as General Assessments and be enforced In the same manner, as hereinafter provided.

F. Assessment Liens. The Association will have a lien for all unpaid assessments, from the date when due and unpaid, whether General or Special, upon each Lot against which the assessment was applicable.

G. Remedies For Collecting Assessments. The Board will be responsible for collecting assessments and the following provisions will be applicable to such collections:

1. Any general or special assessment, if not paid on or before the default date, which date will be the last banking day of the month following the month in which payment was due, will bear interest from the day following the default date at the highest lawful rate applicable to such assessments, or any lesser rate the Board adopts from time to time as the Association's rate.

2. All of the fees, costs and other expense incurred by the Association to collect assessments after their default date, reasonable attorneys fees included, whether disbursed or accrued, shall be payable by the defaulting Owners, with interest thereon at the rates prescribed above to the extent of Association disbursements, and the same will be added to the unpaid assessment and become a part thereof as fully as if part of the original assessment.

3. The Association will proceed by any means authorized by applicable law to collect assessments. In so doing, the Association may employ counsel and appraisers, record notices of lien, institute and prosecute foreclosure proceedings, enter bids and upset bids, purchase the property foreclosed upon, borrow against and mortgage the property purchased, sell the property purchased, prosecute civil actions, and in general, mediate, arbitrate and litigate any matter or issue.

4. Should a majority of the Board members find that any assessment claim lacks merit or is uncollectible without the Association incurring a loss, the Board may settle or abandon same so long as a majority of the Board members find that doing so is more likely than not in the best interests of the Association.

5. Each such assessment, together with interest, Fees, costs, and other expense payable by the defaulting Owner, shall be the personal obligation of the Owners from the date of assessment. The personal obligation for delinquent assessments shall not pass to a successor in title to a Lot unless expressly assumed by the successor; however, the lien upon the Lot shall remain a lien until paid in full, notwithstanding the sale or other transaction or event by which the successor took title to the Lot, with interest as provided above, except as may otherwise be provided in this Declaration.

H. Written notice of an annual meeting, or any special meeting of the Membership called for the purpose of taking any action regarding assessments, shall be sent to all members not less than 10 calendar days, nor more than 60 calendar days in advance of the meeting. The quorum requirement for such meetings shall be 51% of the Membership, present in person or by proxy.

I. To facilitate Owners in selling or mortgaging their Lots, the Association shall, upon request from such Owner or the Owner's broker or other representative, furnish a certificate signed by an authorized representative of the Association setting forth the balance payable, if any, of the assessments applicable to a designated Lot. Such duly executed certificate will be binding upon the Association as to the party receiving an interest or title to the designated Lot as of the date of its issuance but shall not extinguish judgments or liens of public record.

J. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and the sale or transfer of any Lot pursuant to foreclosure of a first mortgage 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, but no sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

K. A majority of the Board shall have the right to suspend defaulting Owners' voting rights until their assessment balances are fully paid.

#### **ARTICLE V - COMPLIANCE WITH THIS DECLARATION. THE BYLAWS, AND THE RULES OF THE CORPORATION**

If any Owner fails to comply with this Declaration, the Bylaws, the Rules, or the Standards or rulings of the Committee, other than defaults in the payment of assessments, the following relief shall be available:

A. The Board, or 40% of the Owners if the Board fails to act, in the name of the Association, may bring a civil action and recover sums due, damages, and/or injunctive and other equitable relief for the Association.

B. If the non-compliance or other form of violation is remediable, as in the case of repairable damage or the threat of damage to property, the Association may (but need not) remedy the violation and assess the costs of remediation against the offending Owner as a Special Assessment.

C. Prior to availing itself of the relief specified herein, as and when required to do so the Association shall follow any hearing procedures set forth in the Bylaws.

D. The Board may recommend Rules containing fines and penalties for violations and non-compliance, which will become effective upon approval by a majority of the members voting in person or by proxy at an annual or special meeting of the Association provided the notice of the meeting contains the proposed Rules, fines and penalties and provided such notice is given at least 10 days and not more than 60 days prior to the meeting date. The Board will administer the Rules and impose fines and penalties

consistently and in a uniform manner applicable to all Owners without preference. Fines and penalties will not exceed the limits for same authorized by the Act and the procedures followed by the Board will comply with the procedures authorized by the Act.

**ARTICLE VI - COMMON AREA USAGE, EASEMENTS, UTILITIES  
AND PROPERTY RIGHTS OF LOT OWNERS**

A. Every Owner of a Lot, as an appurtenance to such ownership, will have the right to the use and enjoyment of the Common Areas along with all of the other Owners. Such uses will be for the purposes for which the area was designated a Common Area, or for which it is generally being used, and will be subject to the following provisions:

1. The Association will have the right to make reasonable rules and regulations regarding the use of Common Area. The intentional violation of any such rules will be sufficient grounds for the suspension of such right and/or the imposition of a reasonable fine for the violation.
2. The Association will have the right to impose reasonable rules and regulations regarding the use of facilities outside of the Subdivision for which the Association has obtained any easement, license or right.
3. The Association may grant or acquire easements for water, sewer, drainage, ingress and egress, communications and other utilities, signage, storage, and for the maintenance thereof, through, over or under Common Areas, or outside of the Subdivision.

C. Any Owner may assign, in accordance with the Bylaws, her/his right of enjoyment of the Common Areas and facilities (Including any facilities, if any, that are located outside of the subdivision) to Family members, tenants, or contract purchasers, provided that any such assignee resides In that Owner's dwelling in the Subdivision.

D. Easements and rights of way over and upon a Lot for drainage or the installation and maintenance of utilities and services are reserved exclusively to the Declarant and the Association for such purposes. Such easements and rights are shown or noted on the recorded Subdivision Map identified above, which map is incorporated by reference and made a part hereof for a more particular description of such easements and rights of way. The easements and rights of way reserved: by Declarant on the Lots pursuant hereto shall be maintained continuously by the Owner of each such Lot and no structures, plantings or other material shall be placed or permitted to remain upon such areas nor may other activities be undertaken thereon which could interfere with the installation or maintenance of the subject utilities or other services, or which could retard, obstruct or reverse the flow of storm waters or which may damage or alter the established slope ratios or create soil erosion problems.

E. The use of utility and service easements and rights of way as described above For any type of cable transmission system is reserved exclusively to Declarant, and after three years to the Association, and no other cable transmissions service company or organization shall be permitted to service any Lot or combination of Lots except with the express permission, initially of Declarant and subsequent to the above date, of the Association.

F. The Declarant reserves the right to subject the Property in the Subdivision to a contract with a public utility company for the Installation of a street lighting system which will require a continuing monthly payment. The cost of maintaining street lighting facilities shall be considered as part of the Common Expenses.

**ARTICLE VII - ARCHITECTURAL CONTROL**

A. Plan and Design Approval. No Improvements will be undertaken upon any Lot unless the plans and specifications and location of the proposed Improvements have been submitted to the Architectural Committee and expressly approved by same in the written form prescribed by the Committee. Pre-construction plans and specifications will be required for all houses and outbuildings. The Committee may require initial schematic drawings and subsequent drawings in the customary form sufficient for the purpose of obtaining bids from contractors. No alteration or modification of any existing Improvements, or any construction, erection or installation of additional improvements may be undertaken without the same sort of review and express written approval of the Architectural Committee as is required for original construction.

B. Architectural Committee. The Declarant will establish an Architectural Standards Committee (hereinafter referred to as the "Committee") composed of from three to five persons. The Board will continue in office the Committee as constituted by the Declarant for a period of five years or until certificates of occupancy have been issued for the first 20 homes in the Subdivision, whichever first occurs. During said period, the Declarant will appoint replacements for any Committee members who resign or otherwise cease to act. Thereafter the Board will make appointments to the Committee for such terms as the Bylaws provide and the Board will appoint replacements for Committee members as and whenever vacancies occur. At least a majority of the members of the Committee are to be members of the Association. Committee members may, but need not, be Board members. The Declarant or the Association may employ professional persons to advise and assist the Committee on an as-needed basis.

C. Subdivision Architectural Standards. The Committee will consider the following factors in determining whether to approve, or approve with modifications, or disapprove the applications of Owners for approval of improvements: (1) the conformity of

proposed Improvements to the restrictions contained in this Declaration; (2) the harmony and balance required between the proposed Improvements and the other existing and planned improvements in the Subdivision, with regard to architectural style, external dimensions, color, and the quality and appearance of all external surfaces; (3) the necessary standards of workmanship and materials, and such criteria as the strength and durability of structures and materials, to withstand extreme weather conditions foreseeable in the area; (4) likely effects on other Lots or Common Areas; and, (5) the procedure for obtaining Committee approval and the form of requests, plans and other documents to be submitted.

D. Procedure. Prior to seeking a building permit if such permit is required for the improvement, but in any event prior to commencing any work on an Improvement, the Owner proposing an Improvement will have obtained written approval of the proposed improvement from the Committee. To obtain such approval, the Owner will deliver to the Board a written request for approval of an Improvement, containing a description of the proposed Improvement., in form satisfactory to the Committee. The Committee may review and require further presentations before acting on the request, or approve the proposal, or reject the proposal, any such action to be described in a journal or in any other written form. As a condition of considering or granting approval the Committee will have the authority to require an Owner: (1) to obtain any applicable governmental approval or permit; and, (2) to submit modified or additional specifications or design drawings for any aspect of a proposed Improvement.

After receiving a request, the Committee will respond to the Owner or the Owner's representative within the thirty days, either approving or disapproving the request, or requiring additional information.

The time later taken by the Committee to review additional information submitted by the Owner will not exceed 15 days. In the event of any perceived unreasonable delay by the Committee in responding, a requesting Owner may give written notice of the facts to the Board and if the Committee has not responded within 21 days after delivery of such notice to the Board, the request of the Owner will be deemed approved.

E. Authority of the Committee. The Committee will have the exclusive right, in its sole discretion, to either approve or disapprove proposed Improvements, and changes in approved Improvements. Such discretion may be based on its collective judgment of aesthetic values, or on any non-compliance with the published Standards. The provisions of this Article are to be liberally interpreted to give broader scope to the Committee's authority as long as it is exercised in accordance with the following balancing of interests and consistency requirements. Nothing contained herein shall be construed to vest the Committee or the Board with jurisdiction or authority over the interiors of houses or outbuildings, except for the promulgation and enforcement of rules such as a prohibition of the storage of explosive or other hazardous materials.

F. Balancing of Interests and Consistency. The Committee will carry out its duties in an evenhanded, reasonable and consistent manner. Although a significant part of its duties relate to aesthetic considerations, the Committee members will not exercise their broad discretion for the purpose of stubbornly assuring sameness or features that merely reflect their individual personal preferences. Rather they will consider alternatives with an open mind toward diversity when it is harmonious and not out of balance with prevailing conditions in the Subdivision. The Committee will be responsive to technological advances that offer opportunities for Owners to improve their properties. The Committee will use its best efforts to balance the equities between the property rights of the Owner who is proposing or doing an Improvement, and the aesthetic and quality considerations valuable either to all Owners or to the Owners in the vicinity of the proposed Improvement or change.

G. Enforcement. The Committee will have the nonexclusive authority to enforce the provisions contained in this Article or promulgated in accordance herewith, and/or to prevent any violation of such provisions, by a civil action against the person or persons violating or threatening to violate any such provision; but the Committee will have no duty to do so. The authority to enforce such provisions shall concurrently lie in the Board and in any Owner(s) who are damaged or likely to be damaged by any such violation.

H. Inspection and Changes in Plans or Specifications. The Committee will have the authority to enter upon any Lot during site preparation, construction, or Installation of an Improvement, to determine whether the work is being done in accordance with the plans and specifications approved by the Committee. Changes in the plans and specifications which will foreseeably alter the appearance of the Improvement from the exterior to a recognizable extent, or will violate any mandatory standard or restriction established by this Declaration or by the Board or Committee pursuant to the authority given herein, will be submitted to the Committee with a request for review and approval and the Committee will act upon such request with reasonable diligence and dispatch and Its approval will not be unreasonably denied. Unless denied within 14 days after delivery of such request for approval of a change in plans or specifications, the request will be deemed approved.

I. Limitation of Actions. If an Owner proceeds with an Improvement in violation of this Article, and no civil action has been commenced to prevent or remedy the violation by either the Committee, the Board, or any Owners for three months after the later of (i) the commencement of such Improvement and (ii) the point at which the violation was reasonably obvious to other Owners, then the violation will be deemed forgiven.

J. Expenses, Compensation and Advances. The reasonable expenses of the Committee will be deemed Common Expenses subject to assessments as provided above in Article IV. When available, the Committee may require the Board to obtain errors and omissions insurance in amounts specially determined for the needs of the Committee from time to time. No member of the Committee will accept or be entitled to compensation for services rendered to the Committee. The Association will reimburse

Committee members for reasonable out-of-pocket expenses incurred in the performance of their duties as members of the Committee.

K. **Limitation of Liability.** Neither the Committee, nor any member thereof, nor the Declarant shall be liable in damages or otherwise to any Owner or other person involved in any matter before the Committee, except for Intentionally fraudulent or criminal acts, or gross negligence occurring after written notice of the harm foreseeable from the acts or omission complained of. Neither the Declarant nor the Committee nor the Board shall be responsible in any way For any defects In plans, specifications or details submitted, revised or approved In accordance with the provisions contained herein or in the Standards, nor for any structural or other defect in any construction. The Committee is not empowered and will not be deemed to be empowered to approve or disapprove any matter covered by the North Carolina Building Code or any other applicable governmental regulation; the mere fact that the Committee has approved a design or plan does not mean and will not be interpreted to mean that the structures therein are in accordance with such Code or regulations, or that they are safe, or sufficient or valuable in any respect.

L. **Supplementary Standards.** The following standards will be supplemental to those prescribed from time to time as above provided.

1. The exterior appearance of any building added to a Lot which has an existing building, and any extension of an existing building, will complement the existing building.

2. Subject to Committee approval, an Owner of adjoining Lots may construct a dwelling and/or other structures permitted hereunder upon and across the dividing line of such adjoining Lots, all such structures to comply with the minimum building setback lines from the outer boundaries of the combined Lots. Thereafter such combinations of Lots or portions thereof shall be treated for all purposes under this Article as a single Lot.

3. No mobile home, trailer, camper, tent, or temporary house, temporary garage or other temporary outbuilding shall be placed or erected on any Lot, provided however, that the Committee may grant permission for temporary structures for storage of materials during construction. No such temporary structure as may be approved shall be used at any time as a residence.

4. Once construction of a dwelling or other Improvements is started on any Lot, the Improvements must be substantially completed in accordance with the approved, plans and specifications within 12 months from commencement.

5. During construction of improvements on any Lot, the Lot must be cleaned of excess debris at least once a week and adequate portable sanitary toilets must be provided for the construction crew.

6. All dwellings and permitted structures erected or placed on any Lot shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in good workmanship manner and quality.

7. The Standard exterior of the dwelling and garage on every Lot in the Subdivision shall be either natural wood, stone, brick, stucco, or Hardiboard equivalent. Other materials suggested by the Lot Owner will be considered by the Committee as a suggestion to change the Standard for the Subdivision but not as an exception to the Standard to be allowed for the one Lot.

8. One dwelling and one detached garage will be permitted on all Lots except the Lots with river Frontage; a second outbuilding is permitted for the Lots with river frontage. Any permitted outbuilding shall be of the same or compatible material, quality, general appearance and workmanship as the dwelling on the Lot and shall have a permanent foundation. No building will have any visible concrete block exterior.

9. Except for homes constructed by the Declarant, no residence constructed in the Subdivision may be used as a model home unless the Board approves of the concept of allowing a third party contractor to market one or more homes In the Subdivision.

10. Fences and hedges and similar barriers of any sort will not exceed 42" in height. No chain-link or other wire fences will be permitted. Hedges and foliage within ten feet of a dwelling or garage are exempt from Committee jurisdiction.

11. Roof pitch will be a minimum of 5/12 except for minor portions of a dwelling roof which otherwise meets the minimum and as to which the excepted portions present no aesthetic imbalance.

12. No carports or similar structures are to be permitted.

13. The minimum square footage of heated living space in each dwelling, excluding garage, Lot by Lot, will be: Lot 1 & 2, 2,500 ft, Lots 2 through 15, 3,000ft, Lots 16 through 22, 2,500ft, Lot 23, 2,200ft, and Lots 24 through 33, 2,000ft.

14. There are to be no exposed stilts or pilings; the Committee will consider lattice enclosures but may reject same if incompatible with neighboring dwellings or not of acceptable quality or finish.

15. Runoff management and any other applicable hydrological matters are to be addressed in all proposals for Improvements; tile Committee may require engineering reports regarding same.

16. Garages will be sufficient either for two, three or four cars. One-car garages are not permitted on river front Lots. Driveways will be cement concrete, brick, fixed stone or block, and contain adequate parking space for at least three vehicles (river front lots) or two vehicles (pond front lots) outside of the garage.

17. The minimum height of concrete slab serving any first floor living area will be 30 inches above grade at the perimeter.

18. No used or pre-manufactured homes or buildings of any kind are permitted. No metal outbuildings or metal children's swing set/play sets are permitted.

19. One dock will be permitted for each Lot with river frontage, starting at the mean high water mark. A shelter (gazebo or similar) will be permitted for each dock but such structures will not have sidewalls more than 38' above the lowest level of the dock walkway between the mean high water line and the entrance to the shelter. Boat lifts will be permitted on the dock but no boat houses or similar structures. Dock lighting will be low intensity and not bothersome to neighboring homes; spot lights, flood lights and wide area lighting will not be permitted on docks. Each such dock may have dock boxes up to 36' in height above the lowest level of the walkway between the mean high water line and the dock box.

20. The Committee is authorized to permit one dock for each Lot with frontage on a pond. No part of any such dock will

be more than four feet from the shoreline, nor will it be more than eight feet in length along the shoreline. No boat lifts or shelters of any kind will be installed on pond docks. Lighting will be permitted on pond docks but it will be low intensity and not bothersome to neighboring homes; spot lights, hood lights and wide area lights will not be permitted on pond docks. The Committee may impose additional restrictions as needed for the care and maintenance of the ponds. Concrete or metal markers may be required by the Committee to fix the Lot line at the edge of the pond.

21. The setback distance from the river's mean high water line to any part of a building, Lot by Lot will be: for Lots 1 through 6, and Lot 23 - 50 feet; For Lot 7 - 65 feet; all others - 75 feet. The setback distance from the shore line of ponds to any part of a building, Lot by Lot except For Lots 24 and 25 will be 25 feet. The setback distance from the streets to any part of a building, Lot by Lot except for Lots 24 and 25 will be: for Lots with river frontage 75 feet; for all other Lots - 35 Feet. The Committee will determine the setback distances from the Pond and the street for Lots 24 and 25 as and when the applications for Improvements are first received for those Lots. Side yard setback distances for all Lots will be 10 feet. In the determination of setback distances from a cul de sac, the committee may modify the setback from the street to produce a substantially equal radius for the fronts of dwellings on the cul de sac.

22. The standard for outside lighting on the Lots is that no such lighting will have any off-site effects that could be bothersome to off-site Owners because of light spreading off-site, or because of the intensity, color or intermittent functioning of the light.

23. Trees existing at the time of the initial purchase of a Lot From the Declarant need not be removed, regardless of where they are located, unless on a property line, in which event both Owners will have to give their approval to a removal. Trees may be added without consent of the Committee if planted no closer than 30' to a sideboard line and no closer than 20' to either the river's mean high water mark or the shoreline of a pond. Trees to be planted elsewhere require Committee approval.

M. Notice Required Against Successors in Interest. The requirements of this Article shall not in and of: themselves constitute a lien or encumbrance on any Lot on which construction of Improvements has been completed, and any subsequent purchaser thereof for value without notice of the alleged violation of such requirements (as, for example, by the filing of a lis pendens in the office of the Clerk of the Superior Court of Carteret County in connection with litigation) is in no way affected by the failure of his predecessors in title to comply with the terms hereof.

#### **ARTICLE VIII - RESTRICTIONS AND COVENANTS ON USE AND OCCUPANCY**

The Following restrictions and covenants will be applicable to all Owners and third persons within the Subdivision:

- A. No Lot shall be used except For single family residential purposes.
- B. No above-grade structure may be built, placed or installed on any Lot except as required herein and as approved by the Committee.
- C. No sea wall or other barrier or structure of any kind will be built, placed or installed in any pond or upon its shore; except for the dock provision above in Article VII Section L. Subsection 20.
- D. All trash and garbage receptacles shall be stored so as not to be visible from streets or neighboring Lots.
- E. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or unreasonable accumulation of ground covers or Foliage shall be permitted.
- F. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any Lot or Common Area except in places and containers approved by the Committee.
- G. Grass will be mowed as needed to keep it under 6" in height from the ground. Cut grass and other vegetation waste will be disposed of outside of the Subdivision or as the Rules require and will not be deposited or allowed to gather in the Subdivision streets or storm water drainage system.
- H. Swales will be inspected monthly or after every runoff-producing rainfall for sediment buildup, erosion and trash accumulation. Accumulated trash will be removed. Swales will be reseeded or sodded following sediment removal. Eroded areas of the swales will be repaired and reseeded at the Association's expense. Swales will be revegetated as needed based on the findings of the inspections, Swales may not be altered, piped or filled in without approval of the North Carolina Division of Water quality.
- I. Any dwelling or improvement on any Lot which is destroyed in whole or in part by fire or other casualty must either be rebuilt or removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall any debris or remains of such destruction remain on such Lot longer than three months.
- J. No stripped, partially wrecked, or junked motor vehicle, or part thereof, shall be permitted to be parked or kept on any Lot. All motor vehicles of any type kept on any Lot shall have current registration and inspection certificates. Watercraft of any type may only be stored on docks, except that watercraft under 18 feet in length may be stored in the back yards of river front lots from April 1 to November 1.

- K. No truck or other vehicle in excess of a one-ton load capacity, and no mobile home, trailer, camper, similar vehicle or water craft shall be parked or kept on any Lot, in such a manner as to be visible to the occupants of other Lots or the users of any street or recreation area, for more than seven days during any 21 day period.
- L. All fuel storage tanks shall be concealed in a sightly manner.
- M. Signs will be allowed only as follows. 'For Sale' signs will be no larger than 14" X 21'. Builder Identification (or similar purpose) signs will be no larger than eight square feet. The Declarant or Association may permit small signs to designate Lots by their number.
- N. No transmitting antennas may be attached to any building or installed on a Lot with the exception of a VHF radio antenna transmitting with less than 10 watts. Any such antenna will be inconspicuous and extend less than 10 feet above the highest point of the building on which installed, or above the ground if installed on the ground.
- O. One satellite receiving dish of 20' or less in diameter and one television/radio receiving antenna may be attached to any building on a Lot. One weather station may be attached to any building on a Lot provided that it does not extend more than 36' above the highest point of the building. Such antennas and weather stations will be inconspicuous and will not be visible at standing eye-level from the curb at streetside of the Lot on which installed, or at streetside of either of the adjoining Lots.
- P. All dwelling connections for utilities, including but not limited to water, sewer, electricity, gas, telephone and television shall be run underground from the proper connecting points to the dwelling structure.
- Q. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets in a reasonable number may be kept provided they are not kept, bred or maintained for any commercial purpose, and provided, further, that such pets do not constitute a danger or nuisance to other Lot owners or to the neighborhood. Snakes and other animals that are known to be harmful to humans are not to be brought to or kept in the Subdivision.
- R. Entrances to enclosed garages may face in any direction provided that all such garages shall have a door or doors that completely close off the garage entrance and such door or doors shall remain completely closed except during periods of actual use of such garage entrance.
- S. No noxious, offensive or illegal-trade or activity shall be carried on upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to other Lot owners or the neighborhood.
- T. No window air conditioner shall be installed where It will be visible from the street on which the dwelling fronts.
- U. Holiday lighting and other decorations will be permitted on a Lot only if attached to any building and only during the last 30 days before the day of the holiday, and for the 15 days following the holiday. Flags and banners will be permitted but no more than one decorative or art banner and two officially recognized State or US flags will be displayed on any Lot at one time. The Committee may require all such banners and flags to be set in holders attached to a dwelling.
- V. Home offices are permitted, but not an office or any other use of a dwelling or Lot in which, other than the Owners or tenants of Owners, there are present any employees or manager(s), whether part or Full time, day or night, for pay or other recompense, or in which inventory is stored, or where patients, wards or recipients of care or services, or where sales of goods or services take place other than telephonically or electronically, or which generates more vehicular traffic than a home generally does.
- W. No owner may conduct more than one garage sale in any 12-month period. The estate of a deceased Owner may conduct an estate sale. Otherwise, no sales which involve the display of goods of any kind, or vehicles or watercraft, outside of dwellings and garages will be conducted.
- X. The board will promulgate vehicular parking and other storage and use requirements for the Lots and streets in the Subdivision, including therein strict enforcement provisions to deal with recreational vehicles, motor homes, trailers of all kinds, abandoned vehicles, motorcycle and like vehicles that emit loud noises, vehicles that emit excessive amounts of fumes, motor vehicle repair work, and any other activities that are noisy, or produce noxious fumes or odors, or otherwise interfere with the peace and quiet or the purely residential character of the Subdivision. There will be no shop work or repairs done on motor vehicles in the Subdivision; this prohibition will not include minor repairs or servicing that is safely commonly done within an Owner's garage.
- Y. Any of the foregoing and all other Forms of conduct that can or do create private or public nuisances within the Subdivision can be made the subject of Rules promulgated by the Board which will be enforced for the benefit of the Subdivision and its Owners.
- Z. The "Stormwater Rules" as set forth by the NC Dept. of Environment, Health and Natural Resources are listed in

## **ARTICLE IX- AMENITIES AND PROPERTY LOCATED OUTSIDE OF THE SUBDIVISION**

- A. If the Declarant acquires any rights or easements in property outside of the Subdivision, for the use by all of the Owners, such usage will be subject to any agreements and covenants entered into by Declarant on behalf of the Association with the third party owners of such property governing the access, use, maintenance and operation of said property. All such rights and easements will be deemed Common Area, and the Association's share of the expense of maintaining such property will be Common Expenses subject to assessment as provided above in Article IV.
- B. If any such rights or easements in property outside of the Subdivision are acquired or obtained for the use of less than all of the Owners, then the rights and easements obtained will nevertheless be deemed Common Area and the Association's share of the expense of maintaining such property will be deemed Common Expense.
- C. The Declarant or the Association may abandon any such rights or easements, or dedicate same to the public with the joinder in such dedication of the third party owner of the property outside of the Subdivision.
- D. Declarant owns and may develop lands adjoining or near Blair Pointe Subdivision. Nothing in this Declaration shall be deemed to create any restriction or limitation upon any such development.

## **ARTICLE X - WAIVER**

No provision contained in this Declaration, the Bylaws or the Rules, or in the Architectural Standards, shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any person as to the same or similar future violations, no matter how often the failure to enforce is repeated.

## **ARTICLE XI - VARIANCES**

The Board in its discretion may allow reasonable variances of Lot lines and setback requirements, and of Architectural Standards when recommended by the Committee, in order to alleviate practical difficulties and hardship in their enforcement and operation. No such variance shall have a material adverse effect on any Owner or Lot, and in resolving to grant any such variance the Board will make a specific finding to that effect. When necessary to be effective, a variance hereunder shall be recorded In the Carteret County Register of Deeds Office; shall be executed on behalf of the Association by its appropriate officers pursuant to a resolution of the Board adopted pursuant to the authority herein granted.

## **ARTICLE XII - DURATION, AMENDMENT AND TERMINATION**

- A. The covenants and Restrictions contained in this Declaration shall run with and bind the land for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended each year For successive periods of twenty years. A two-thirds majority of the Membership voting in person or by proxy at an annual or special meeting of the Association at least four months preceding the first expiration date, and thereafter each year at least four months before the end of the year, may terminate this renewal provision. Provided, however, that no such termination will become effective without the written consent of all holders of first mortgages on any of the Lots.
- B. This Declaration may be amended in Full or in part during the First 20-year period by an instrument signed by not less than 90% of the Lot Owners, and thereafter by an Instrument signed by not less than 75% of the Lot Owners; provided, that no amendment shall alter any obligation to pay Common Expenses as herein provided, or affect any lien for the payment of same. To be effective any amendment must be recorded in the office of the Register of Deeds of Carteret County, North Carolina and a marginal entry of same must be signified on the face of this document of record.
- C. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, and all of the remaining provisions will remain in full force and effect.

## **ARTICLE. XIII - CAPTIONS**

The captions preceding the various Articles and sections of this Declaration are for the convenience of reference only, and shall not be used as all aid in interpretation or construction of any provisions hereof. Throughout this Declaration, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include the masculine and feminine.

**ARTICLE XIV - ASSIGNABILITY OF RIGHTS AND LIABILITIES**

Declarant shall have the right to sell, lease, transfer, assign, license and in any manner alienate or dispose of any rights, interests and liabilities retained, accruing or reserved to it by this Declaration. Following any such disposition, Declarant in no way shall be liable or responsible to any party with regard to any such right, interest or liability or any claim or claims arising out of same in any manner.

**ARTICLE XV - LIBERAL CONSTRUCTION**

The provisions of this Declaration shall be construed liberally to effectuate its purpose of creating a Subdivision of fee simple ownership of single family homes the Subdivision being governed and controlled by restrictions, covenants, conditions, standards and easements administered by an owners' association with each Owner entitled to and burdened with the rights and easements equivalent to those of other Owners.

IN TESTIMONY WHEREOF, Larry Land, John W. Gainey, III, David Horton, Frederick McCune, K. Dean Wagaman, being all of the members and managers of Blair Pointe, LLC, have hereunto set their hands and adopted as their seals the typewritten word 'SEAL' appearing beside their names on the day and year first above written.

\_\_\_\_\_ seal  
\_\_\_\_\_ seal  
\_\_\_\_\_ seal  
\_\_\_\_\_ seal  
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(the original is recorded in the Courthouse at Book 807 page 437)

**APPENDIX A  
Storm Water Management Rules**

1. The lots are limited to a maximum of 8200 square feet of built-upon area for lots #1-5, 7500 square feet for lots #6-23, and 8250 square feet for lots #24-33. The allowable built upon area per lot is square feet, inclusive of that portion of the right-of-way between the front lot line and the edge of the pavement, structures, pavement, walkways of brick, stone, slate, but not including wood decking.
2. All lots shall maintain a minimum 30 foot wide vegetative buffer between all impervious areas and surface waters.a