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DECLARATION OF PROTECTIVE COVENANTS PT 1 39

OCEANWATCH

THE VILLAGE AT NAGS HEAD

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THIS DECLARATION OF PROTECTIVE COVENANTS, made this the 6th day of September, 1995, by Oceanwatch Partnership, consisting of George E. Goodrich and James Fuller Dibrell, Jr. as General Partners, hereinafter called "Declarant";

W I T N E S S E T H :

WHEREAS, the Declarant is the owner of certain real property located in the Village at Nags Head, Town of Nags Head, Dare County, North Carolina and more particularly described in Article I herein and said property being hereinafter referred to as "OCEANWATCH" and "the Subdivision" herein; and

WHEREAS, the Declarant desires to provide for the preservation of the values of OCEANWATCH and, to this end desires to subject the real property described in Article I to the covenants, conditions and restrictions, easements, charges and liens hereinafter set forth, each and all of which is, and are, for the benefit of said real property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient operation and maintenance of any common area within the subdivision, and to enforce generally these protective covenants, to create a Homeowner's Association to which would be delegated and assigned the powers of administering and enforcing the covenants, conditions and restrictions, and collecting and disbursing any assessments and charges that are hereinafter created; and

WHEREAS, Declarant has caused to be created an unincorporated association for the purpose of exercising the functions as set forth herein; and

WHEREAS, Declarant wishes to ensure that any improvements to the property be in conformance with those standards of Architectural Guidelines adopted and administered by the Village at Nags Head Property Owner's Association for the purpose of protecting the value and desirability of OCEANWATCH as more particularly set forth in Article V;

NOW, THEREFORE, the Declarant hereby declares all that property described in Section 1.01 to be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to this Declaration of Protective Covenants, easements, liens and charges, all of which are declared and agreed

to be in furtherance of enhancing and protecting the value, desirability, and attractiveness of OCEANWATCH and any part thereof, and all of which shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the described OCEANWATCH or any part thereof.

ARTICLE I STATEMENT OF SUBMISSION

Section 1.01 - Submission of Property

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is shown on that Plat entitled "OCEANWATCH in the Village at Nags Head, Town of Nags Head, Nags Head Township, Dare County, North Carolina" dated _____, prepared by Quible & Associates, and recorded in Plat Cabinet _____, Slides _____, in the office of the Register of Deeds of Dare County, North Carolina, said recorded plat being hereinafter referred to in this Declaration as the "Subdivision Plat".

The subdivision plat is subject to this Declaration of Protective Covenants for the purpose of protecting lot owners from uses in OCEANWATCH which would depreciate the value of their property.

ARTICLE II DEFINITIONS

Section 2.01 - Definitions

When used in this Declaration, unless the context shall prohibit or otherwise require, the following words shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(a) "Association" shall mean and refer to the OCEANWATCH Property Owner's Association, and unincorporated association of lot owners.

(b) "Member and/or Owner" shall mean and refer to the record owner, whether one or more persons or entities, or the fee simple title to any lot which is subject to this Declaration, but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(c) "Architectural Standards Committee" shall mean and refer to the committee appointed by the Village at Nags Head Property Owner's Association required by the Town of Nags Head as a condition of the approval of the "Special Planned Development -

Community District" for the Village at Nags Head under Section 8.04 of the zoning ordinance of the Town of Nags Head.

(d) "OCEANWATCH" shall refer to that subdivision developed by Declarant consisting of 17 lots as more particularly described on that plat entitled "OCEANWATCH, the Village at Nags Head, Town of Nags Head, Nags Head Township, Dare County, North Carolina" dated _____ prepared by Quible & Associates and recorded in Plat Cabinet _____, Slides _____, in the office of the Register of Deeds of Dare County, North Carolina, together with one amenity lot.

(e) "Declarant" shall mean George E. Goodrich and James Fuller Dibrell, Jr. and any successor in interest.

(f) "Declaration" shall mean and refer to this Declaration of Protective Covenants and all amendments thereof filed for record in the office of the Register of Deeds of Dare County, North Carolina.

"Dwelling" shall mean and refer to any improved property for single family residential occupancy use located within the Division.

(h) "Improvements" shall mean and refer to any additions to a lot including a dwelling, garage, carports, porches, terraces, balconies, decks, patios, courtyards and any other construction which has been approved by the Architectural Standards Committee of OCEANWATCH.

(i) "Living Area" shall mean and refer to enclosed heated covered areas within a Dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, porches, bulk storage areas, attics and basements.

(j) "Lot" shall mean and refer to those parcels of land enumerated as lots 1 through 17 on the recorded Subdivision Plat.

(k) "Mobile Home" shall mean and refer to a modular unit, including double wide and triple wide units, built on a chassis, designed to be used as a dwelling, with or without a permanent foundation.

(l) "Officers" shall mean and refer to those persons elected by the property owners of the subdivision, pursuant to Section 6.05 and shall consist of a president, vice president, secretary and treasurer.

(m) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

(n) "Subdivision" shall refer to the 17 lots of OCEANWATCH in that plat referred to in Section 1.01 herein together with one amenity lot.

ARTICLE III PROPERTY RIGHTS

Section 3.01 - General

Each lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred and encumbered the same as any other real property.

Section 3.02 - Easements for Declarant

As long as the Declarant retains ownership of any lots within the Subdivision, Declarant shall have the alienable and transferrable right and easement, for purposes of ingress and egress of all roads within the Subdivision for the purpose of constructing any improvements in and to the lots and for installing, maintaining, repairing and replacing such other improvements to the Subdivision which may be undertaken by Declarant but for which in no event shall Declarant have any obligation to do any of the foregoing.

Section 3.03 - Easements for Utilities and Drainage

The Declarant reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric, gas, water, sewer, drainage facilities, telephone systems, cable television service, and conduits for the purpose of bringing public services to the Subdivision, on, in or over those made on the Subdivision Plat and further described in Notes ____ and ____ on the Subdivision Plat. Declarant reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the Subdivision and the right on, over and under the ground to cut drainways for surface water and make any grading of the soil whenever and wherever such action may appear to Declarant to be necessary to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

Section 3.04 - Maintenance Easement

There is hereby reserved for the benefit of Declarant, its respective agents, employees, successors and assigns the right to enter upon any lot, such entry to be made by personnel with

tractors or other suitable devices, for the purposes of mowing, removing, clearing, cutting or pruning underbrush, weeds or unsightly growth for the purpose of building or repairing any land contour or other earth work which in opinion of the Declarant or its agents detracts from or is necessary to maintain the overall beauty, ecology, setting and safety of the property and to perform any maintenance or repair to any common areas. Such entrance shall not be deemed as trespass. Declarant, and its successors, and/or assigns or designees may likewise enter upon any lot to remove any trash which is collected without such entrance and removal being deemed as trespass. The provisions of this paragraph shall not be construed as an obligation on the part of the Declarant and/or any designee of Declarant to undertake any of the foregoing.

Section 3.05 - Environmental Easement

It is hereby reserved for the benefit of Declarant, and its respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all lots for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated by any governmental entity or instituted by the Association or by any governmental entity such easement to include, without limitation, the right to implement erosion control procedures and practices the right to drain standing water and the right to dispense pesticides.

Section 3.06 - Underground Street Utilities and Street Lighting

Declarant reserves the right to subject the real property described hereinabove to a contract with North Carolina Power Company for the installation of underground electric cables and the installation of street lighting, either or both of which may require a continuous monthly charge to the owner of each building lot.

ARTICLE IV MAINTENANCE

Section 4.01 - Yard Maintenance

Each lot owner shall be responsible for the property landscaping of the grounds adjacent to their dwelling and shall maintain said grounds in a neat, attractive and orderly condition without accumulation of litter or debris. Declarant delegates to the Village at Nags Head Property Owner's Association (Master) the authority to enforce this provision and make a determination as to when a violation exists. The Village at Nags Head Property Owner's Association shall have the authority, if it determines a violation exists and owner fails to remedy the violation after receiving notice to correct the same, and to take action to bring the yard maintenance into compliance with minimum standards. The required

work will be at owner's expense and if not promptly paid shall become a lien on owner's property as provided in the Declaration and By-Laws of the Village at Nags Head Property Owner's Association. The Village at Nags Head Property Owner's Association or its designee shall have easement rights to complete the maintenance work required under this section without committing a legal trespass.

Section 4.02 - Common Areas

Maintenance and upkeep (including landscaping) of all common areas shown on the plat shall also be the responsibility of the property owners. The cost of same shall be equally borne by the property owners and if not promptly paid by the individual lot owners, shall become a lien on the owner's property and shall be collected as provided herein by the OCEANWATCH Property Owner's Association.

ARTICLE V ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

Section 5.01 - Purpose

In order to protect the natural beauty of OCEANWATCH and to protect property owners within OCEANWATCH from depreciation of values that could be caused by poor design and failure of materials, inharmonious color schemes, or haphazard location of improvements, lots within OCEANWATCH and all improvements located thereon shall be subject to the restrictions set forth in this Article V. Every grantee of any interest in OCEANWATCH by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article V.

Section 5.02 - Architectural Standards Committee

(a) Membership: The Architectural Standards Committee (hereinafter "Committee") shall be that committee appointed by the Village at Nags Head Property Owner's Association as set forth in that Declaration followed by the Village at Nags Head Property Owner's Association and filed in the office of the Register of Deeds of Dare County, North Carolina.

(b) Approval by the Committee is required prior to commencement of any construction as set out in Section 5.03(a) and shall be undertaken in accordance with Section 5.03(d).

Section 5.03 - Submission and Approval of Plans

(a) 1. Review by Architectural Standards Committee:

No building, wall, driveway, swimming pool, tennis court, or other structure, site work or clearing preparatory to construction

shall be begun, altered, added to, maintained or reconstructed on any lot until the plans and specifications for such work have been reviewed and approved by the Architectural Standards Committee (hereinafter referred to as "the Committee"). Before commencing such review, a lot owner shall submit to the Committee three (3) completed sets of plans and specifications, including, but not limited to, foundation plan, floor plan or plans, the four directional elevations, a schedule of proposed exterior colors and material, shingle colors, grade and weight, plan showing driveway, parking and proposed commencement date of construction and expected completion of improvement. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons which, in the sole and uncontrolled discretion of the Committee, shall be deemed sufficient. If construction of any improvement required to be approved shall not have been begun before the expiration of six months following approval, said approval shall be void and of no effect. In such event, the plans of such improvement shall be resubmitted to the Committee for reconsideration and the Committee may, in its discretion either confirm its earlier approval of plans or disapprove. All plans must be in compliance with those Guidelines for Building and Development administered by the Committee which as of the date of this Declaration are those guidelines set forth in Section 5.03(b) herein.

2. Review by Officers of the OCEANWATCH Property Owner's Association:

All such plans shall also be submitted to the officers or agents of OCEANWATCH Property Owner's Association for final review and approval of same after approval by the Committee as set forth above.

(b) Guidelines for Building and Development:

1. All homes built in the Village shall be of the "Old Nags Head" architectural style similar to those built in the Village to date.

2. Minimum dwelling size shall be as provided in restrictive covenants of developed parcels.

3. Entrance and yard lighting shall be small wattage, low level ground lighting. High intensity flood lighting from poles or dwellings is not permitted unless specifically approved in writing by the Committee.

4. Maximum height shall be in accordance with the Town of Nags Head Zoning Ordinance and the restrictive covenants applicable to developed parcel.

5. Trash or garbage receptacles' location and elevation must be submitted to Committee for approval and must be constructed of wood and be enclosed on all sides and bottom within six inches of finished grade.

6. Drives not to exceed eighteen feet (18') in width at connection to streets shall be paved with concrete or bricks. Colored drives will not be approved (red, green, etc.). One and one-fourth (1-1/4) full size automobile parking spaces shall be provided as off-street parking for each bedroom and bedroom/den shown (i.e. 4 bedroom - 5 parking spaces). Parking spaces under houses, in garages or carports or in driveways will be acceptable.

7. Landscaping:

(a) Landscaping plans must be approved. Generally native vegetation shall be used. There shall be no removal of trees except as necessitated by construction. There shall be no vegetable gardens except in areas well-screened from road and other homes.

8. No detached buildings will be approved.

9. There shall be no fuel tanks or storage receptacles exposed to view.

10. Exterior siding shall be of natural wood using solid, semi-transparent stain or weathering stain, cedar shakes, etc. Colors shall be earth tones similar to those used in The Village to date.

11. Roofs are to be cedar shake (some may have to be fire rated).

12. Skylights and antennas will not be allowed unless specifically approved by Committee.

13. All exterior house pilings shall be covered with wing walls and siding to match the house unless otherwise approved by the Architectural Review Committee. Pilings under decks and porches shall not be covered.

14. Setbacks will be in accordance with the restrictions, recorded plat and/or CAMA regulations.

15. Garages and carports must be attached to the dwelling house.

16. Allowed Signs:

(a) Permanent Owner Identification - 5" x 20" with owner's name or adopted name with colors to be approved.

(b) Real Estate Sales or Rentals - One 12" x 20" Realtor's "For Sale" sign and/or one 12" x 20" Realtor's "For Rent" sign allowed for each property, painted Village Blue with Cream lettering and "Nags Head" horse's head logo.

(c) Contractor Sign - One 24" x 36" sign allowed per lot, painted as described in (b) above.

17. No clotheslines shall be located on the property unless specifically approved by Committee.

18. Utility lines, which includes all water, sewer, electrical and cable television lines, shall be installed underground.

19. Mail boxes and newspaper receptacles shall be of standardized design approved by the Committee.

20. Cupolas are allowed provided they are enclosed and tie in with "Nags Head" styling, similar to those used in Golf Links Clubhouse and Village Beach Club. No unfinished viewing areas or decks higher than finished elevation of highest finished habitable interior floor shall be allowed.

(c) Variance: The Committee may from time to time grant the owners of property in The Village at Nags Head a waiver or variance of the provisions of this Declaration. The conditions under which such a waiver or variance may be granted shall be in the total discretion of the Committee. The expressed purpose of the powers as described in the paragraph is to enable the Committee to alleviate hardships created by the terms of this Declaration under circumstances which are beyond control or fault of the parties and would create irreparable harm or unnecessary hardship without such action; or under conditions where title to the property in question is clouded, encumbered or detrimentally affected by the existence of conditions which cannot otherwise be corrected.

(d) Procedures:

1. Procedures for Committee:

At least thirty (30) days prior to the proposed commencement of any construction, the plans shall be submitted to the Committee and to the Association officers or its agents. The Committee's and the officer's approval, disapproval or waiver as required in these covenants shall be in writing and the decision of a majority of the Committee in case of any disagreement among Committee members as to

the approval, disapproval or waiver by the Committee shall be controlling. In the event the Committee or its designated representatives fail to approve or disapprove within thirty (30) days after plans have been received by it, approval of the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with. Further, in the event any construction is commenced on any lot without submission to the Committee of the plans with respect thereto, and no action or suit is instituted against the owner of such lot by the Association or any owner of any other lot constituting a portion of the Subdivision within ninety (90) days after the foundation of any building being constructed on any such lot is completed, then, and in any such event, approval by the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with.

2. Procedures for Officers/Agents of the Association:

All such construction plans shall be submitted to the officers or agents of the Association under the same procedure and authority as set forth above, to be reviewed and finally approved by them, such review and approval to occur after the plans have been approved by the Committee as set forth above.

Section 5.04 - Approval Not a Guarantee

No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, nor the Architectural Standards Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article V, no any defects in construction undertaken pursuant to such plans and specifications.

Section 5.05 - Building Restrictions and Lot Coverage

All dwellings shall have a minimum of 1,400 square feet of living area. All buildings, including porches, eaves, steps and similar fixtures shall be located on any lot in accord with the minimum setbacks as set forth on the Subdivision Plat.

Maximum lot coverage shall be the same as that allowed by the Town of Nags Head, which shall include structures and/or paved surfaces, including walkways or patios of brick, stone, slate or similar materials. This covenant is intended to insure continued compliance with stormwater runoff rules adopted by the State of

North Carolina and therefore benefits may be enforced by the State of North Carolina. When an owner acquires two or more lots then, and in the event, the adjoining one or more lots may be used as one (1) building site and the side lot lines and easements referred to therein shall apply to the outside perimeter line of the combined lots.

Section 5.06 - Use of Lots and Dwellings

No part of said property shall be used for business, manufacturing, commercial or professional purposes. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business activity or trade of any kind whatsoever shall be carried on upon any lot. No trade materials or inventories may be stored or regularly parked on the premises. No sign of any style or design shall be place or maintained on any lot without the prior approval of the Architectural Committee.

Section 5.07 - Exterior Appearance

No fence, wall, hedge or mass planting shall be permitted except upon approval by the Architectural Standards Committee as to location, style, design and materials. Any unenclosed garages or carports must be adequately screened from street view. Further, no foil or other reflective material shall be used on any windows for sunscreens, blinds, shades or other purposes nor shall any window-mounted heating or air-conditioning units be permitted.

The Architectural Standards Committee shall determine the standards and issue guidelines for the implementation thereof for the location, material, color and design of all mail and newspaper boxes and the manner which they shall be identified.

Section 5.08 - Antennas

No television antenna, radio receiver, or other similar device shall be attached to or installed on any portion of Subdivision, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any lot, which may unreasonably interfere with the reception of television or radio signals within the Subdivision.

Section 5.09 - Animals and Pets

Animals, livestock or poultry of any kind shall not be raised, bred, or kept on any lot except dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that they are under the control of their owner at all times.

Section 5.10 - Prohibited Structures

No structure of a temporary character, house trailer of any kind, tent, shack, garage, mobile home, barn or other outbuilding shall be used, placed or allowed on any lot or building site of land at any time either temporarily or permanently, except such temporary structures as may be necessary for the storage of materials by or for the convenience of workmen and contractors during the erection of residences upon said lots. No temporary structure of any kind, including those hereinabove set out shall be used on any lot or site at any time as a residence either temporary or permanently. "Modular Home" or similar types of dwellings shall not be constructed or placed upon any lot or building site.

Section 5.11 - Motor Vehicles, Trailers, Etc.

Each owner shall provide for parking of automobiles off the streets and roads within the Subdivision prior to occupancy of any dwellings owned by such owner. There shall be no outside storage or parking upon any lot, or within any portion of the Common Areas of any; mobile home, trailer, motor home, tractor, truck (other than pickup trucks), commercial vehicles of any type, camper, motorized camper or trailer, motorized bicycle, motorized go-cart, or any other related forms of transportation devices.

Section 5.12 - Exterior Lights

All light bulbs or other lights installed in any fixture located on the exterior of any dwelling, building or other structure located on any lot shall be clear, white, or nonfrost lights or bulbs.

Section 5.13 - Decks

No detached, built up or roof top decks shall be permitted unless approved by the Architectural Committee.

ARTICLE VI
OCEANWATCH PROPERTY OWNER'S ASSOCIATION

Section 6.01 - Membership

Every person or entity who is a record owner of a fee simple interest in any lot as described in Article I, is subject by this Declaration to assessment by the OCEANWATCH Property Owner's Association and shall be a member of the Association; provided, however, that any such person or entity to hold such interest merely as a security for the performance of an obligation shall not be a member. The requirement of membership shall not apply to any mortgagee or trustee beneficiary acquiring title by foreclosure or otherwise pursuant to the mortgage or deed of trust instrument.

Section 6.02 - Voting Rights

The Association shall have one class of voting membership and members shall be entitled to one vote for each lot in which they hold an interest required for membership by (a) of this Article. When more than one (1) person or entity holds such an interest in any lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine and such persons shall designate one (1) person to vote for their lot, but in no event shall more than one vote be cast with respect to any such lot.

Section 6.03 - Meetings

Regular Meetings shall be convened annually by the president of the Association. Called meetings may be convened by the president of the Association or by any three (3) members of the Association by giving thirty (30) days written notice to all the Association members.

Section 6.04 - Quorum

A quorum for a regular or called meeting of the Association shall consist of a majority of the members of the Association present at such meeting.

Section 6.05 - Officers

Officers of the Association charged with the day to day operation of the Association and who shall be authorized to carry out the Association's business and execute documents on behalf of the Association, shall consist of a president, vice president, secretary and treasurer, each elected by a majority vote of the property owners of the Subdivision.

Section 6.06 - Responsibilities and Authority

The members of the Association, by and through its elected officers shall be responsible for making the decisions as to if, when and how the common area are to be kept and maintained, including the curb and guttering around the interior of the cul-de-sac, to assess and collect for the cost of same, and in general, to carry out the other responsibilities and duties of the Association.

ARTICLE VII
GENERAL PROVISIONS

Section 7.01 - Duration

All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them to

specifically include, but not be limited to, the successors and assigns, if any who shall be burdened and benefitted by these Covenants for a period of thirty (30) years from the date of this Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a two-thirds majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part, provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 7.02 - Notices

Any notice required to be sent to any member or owner, under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, certified mail/return receipt requested, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing. Notice to any one of the owners, if title to a lot is held by more than one, shall constitute notice to all owners of a lot.

Section 7.03 - Enforcement

In the event of any violation or breach of any of the restrictions contained herein by any property owner or agent of such owner, Declarant, its successors or assigns, or the owners of lots within the Subdivision or any of them, jointly or severally, shall have the right to proceed in law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach of any of the restrictions set out above, but before litigation may be instituted ten (10) days written notice of such violation shall be given to the owner or his agent. The failure to enforce any right, reservation or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction contained in this Declaration shall in no way affect any of the other restrictions, but they and each of them shall remain in full force and affect. In addition, the State of North Carolina as a beneficiary of the obligations set forth in the lot coverage provisions of Section 5.06 shall have a right to enforce any violation of said Section.

Section 7.04 - Interpretation

In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Declarant or the Architectural Standards Committee will best effect

the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive.

Section 7.05 - Amendments

This Declaration may be amended by the property owners, including Declarant, representing at least ten of the lots in the Subdivision. No amendment to this Declaration shall be effective until recorded in the office of the Register of Deeds of Dare County, North Carolina.

Section 7.06 - Severability

Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end of the provisions of this Declaration are declared to be severable.

ARTICLE VIII COVENANT FOR PAYMENT OF ASSESSMENTS

Section 8.01 - Creation of Lien and Personal Obligation for Assessments

Each owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed of other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made.

Upon filing with the Dare County Clerk of Court's office, each such lien shall be prior to all other liens except the following: (1) assessments, liens and charges for real estate taxes due and unpaid on the lot; and (2) all sums unpaid on deeds of trust, mortgages and other encumbrances duly of record against the lot prior to the docketing of the aforesaid lien. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the owner of such lot at the time when the assessment fell due.

Section 8.02 - Purpose of Assessments

The assessments levied by the Association shall be exclusively for the purpose of promoting the health, enjoyment, safety or welfare of the residents in the properties, including but not limited to, the maintenance, operation and landscaping of common areas.

Section 8.03 - Annual Assessments

The annual assessments for the year 1995 shall be \$ none for each lot. Thereafter, the annual assessment shall be established by a majority vote of the members of the Association.

Section 8.04 - Special Assessments for Capital Improvements

In addition to the annual assessments authorized by Section 7.03 hereof, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purposes of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repairs or replacements of additions to the common areas, including the curb and guttering around the interior of the cul-de-sac, provided that such assessment shall have the consent of two-thirds (2/3) of the votes of all the members at a meeting duly called for the purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 8.05 - Change in Basis and Maximum Amount of Annual Assessments

The annual assessments provided for in Section 3 of this Article shall be due and payable effective as of January 1 of each year and shall be deemed delinquent if not paid on or before that date.

Section 8.06 - Certification of Assignments

The Association shall, upon demand, furnish at any time to any owner liable for said assessment, prospective purchaser, or lending institution, a certificate in writing, signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8.07 - Effect of Non-Payment of Assessments: The Personal Obligation of the Owner: The Lien: Remedies of the Association

If the assessments are not paid on the date due then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter

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provided, thereupon become a continuing lien on the lot, or lots which shall bind such lot or lots, in the hands of the then-owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then-owner to pay such assessment, however, shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of interest set by the Board, not to exceed the maximum rate permitted by law and the Association may bring appropriate civil action against the owner personally obligated to pay the same or to foreclose the lien against any such lot, or lots, and there shall be added to the amount of such assessment to be collected upon foreclosure, the costs of such action and reasonable attorney's fees to other cost incurred by the Association. In the event a judgment is obtained against any owner for such assessment, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the Court, together with the costs of the action.

Notwithstanding the foregoing, Declarant shall not be required to pay greater than fifty percent (50%) of any assessments on lots owned by Declarant.

Section 8.08 - Subject to Master Covenants The property which is the subject matter of this Declaration is also subject to the "Master Covenants" of The Village at Nags Head and all other easements and restrictions of record.

IN WITNESS WHEREOF, the duly authorized partners of the undersigned Declarant have executed this Declaration of Protective Covenants under seal, this the 6th day of September, 1995.

DECLARANT:

OCEANWATCH PARTNERSHIP

BY: George E. Goodrich (SEAL)
George E. Goodrich
General Partner

BY: James Fuller Dibrell, Jr. (SEAL)
James Fuller Dibrell, Jr.
General Partner

STATE OF North Carolina

BK1008 PG 0067
~~STATE~~/COUNTY OF Dare

I, Donna R. Lewis, a notary public for the above named State and County do hereby certify that George E. Goodrich, General Partner of Oceanwatch Partnership, appeared before me this day and acknowledged the execution of the foregoing instrument.

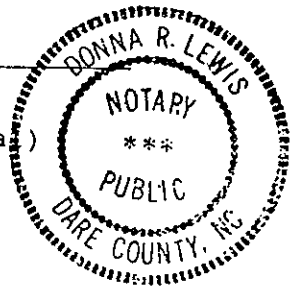
WITNESS my hand and notarial seal, this the 6th day of September, 19 95.

MY COMMISSION EXPIRES:

4-14-96

Donna R. Lewis
NOTARY PUBLIC

(Notarial Seal)



STATE OF North Carolina

~~STATE~~/COUNTY OF Dare

I, Donna R. Lewis, a notary public for the above named State and County do hereby certify that James Fuller Dibrell, Jr., General Partner of Oceanwatch Partnership, appeared before me this day and acknowledged the execution of the foregoing instrument.

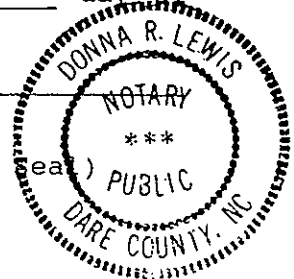
WITNESS my hand and notarial seal, this the 6th day of September, 19 95.

MY COMMISSION EXPIRES:

4-14-96

Donna R. Lewis
NOTARY PUBLIC

(Notarial Seal)



NORTH CAROLINA, DARE COUNTY

The foregoing certificate of Donna R. Lewis, a Notary Public of North Carolina county of dare, is 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.

Dorris A. Fry
REGISTER OF DEEDS

BY:

Andrew J. Silett
ASST. REGISTER OF DEEDS
Deputy