

*See Book 895 Page 105 Filed 10/26/70
See Book 1016 Page 544 Filed 10/24/74*

BOOK 789 PAGE 358

STATE OF NORTH CAROLINA : DECLARATION OF RESTRICTIONS
COUNTY OF NEW HANOVER : ISLAND DEVELOPMENT COMPANY

KNOW ALL MEN BY THESE PRESENTS

That Island Development Company, a North Carolina corporation with its principal office and place of business in New Hanover County, North Carolina, in connection with development of the residential portions of Figure "8" Beach, New Hanover County, North Carolina, desires to place certain restrictions and covenants upon the use and occupancy of residential lots only which might from time to time be sold by it in any section of said subdivision, and to facilitate the uniform and orderly development of said residential portions of said subdivision, and to maintain said residential areas, does hereby place upon all residential lots sold by it in the subdivision after this date, the following restrictions and covenants.

1. No building, fence or other structure shall be erected, placed or altered on any lot in such Residential Areas until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall have been approved in writing by Island Development Company, its successors or assigns. Refusal of approval of plans, location or specifications may be based by the Company upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Company shall seem sufficient. No alterations in the exterior appearance of any building or structure shall be made without like approval by the Company. One (1) copy of all plans and related data shall be furnished the Company for its records.

2. No plans will be approved unless the proposed house will have the minimum required square footage of enclosed dwelling area. Such minimum requirements for each lot will normally be specified in each deed. The term "enclosed dwelling area" as used in these minimum size requirements shall mean the total enclosed area within a dwelling; provided, however, that such term does not include garages, boat sheds, terraces, decks, open porches and the like areas; provided further, that shed type porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed

dwelling area." If for any reason any deed recorded might not specify the minimum required square footage of enclosed dwelling area, the minimum for said house will be 1,400 square feet. However, if the footage in the deed specifies otherwise, such amount shall be controlling.

3. Since the establishment of standard inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly to the side of other homes with detrimental effects on privacy, view of the ocean, preservation of important trees, etc., no specific setback lines are established by these covenants. In order to assure, however, that location of houses will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each house; that the structures will be located with regard to the topography of each individual lot, taking into consideration the height of the dunes, the location of large trees and similar considerations, the Company reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site and location of any house or dwelling or other structure upon all lots. Provided, however, that such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site, and provided further, that in the event an agreed location is stipulated in writing in the contract of purchase, the Company shall approve automatically such location for a residence.

4. The exterior of all houses and other structures must be completed within six (6) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.

5. All lots in any Residential Areas shall be used for residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two (2) stories in height if constructed on piling and three (3) stories in height if constructed with ground floor on conventional foundation at ground level and one small one-story accessory building which may include a detached private garage and/or servant's quarters, provided the use of such dwelling or accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

6. A guest suite or like facility without a kitchen may be included as a part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and provided, however, that such guest suite would not result in over-crowding the site.

7. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

8. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.

9. In order to maintain the high standards of said subdivision, each lot in said subdivision, including the lots owned by the Subdividers is hereby subjected to an annual assessment, commencing with the year 1970, which shall be secured by a lien upon such lot until the same is paid. Such assessment shall be payable annually beginning the first day of January of each year in advance to Island Development Company at the office of the Company, such annual assessment may be adjusted from year to year by the Company, as the needs of the subdivision may in the judgment of the Company require, and shall be apportioned equally among all of the several lots in said subdivision. The funds arising from said assessment shall be used for the payment of maintenance expenses of said subdivision incurred for any or all of the following purposes, and not otherwise: Lighting, improving and maintaining the bridges, collecting and disposing of garbage, ashes, sewage, rubbish and the like; employing watchmen, and doing any other things necessary or desirable in the opinion of the Company to keep the property in neat and good order, and which the Company considers of general benefit to the owners or occupants of said subdivision. Further, a separate assessment shall be made by the Company whenever the need arises for the maintenance and improvement of the streets, roads and drives throughout the subdivision. This assessment shall also be secured by the lien provisions made above and shall be apportioned among the lot owners benefited proportionately to their street, road or drive frontage improved or maintained. The judgment of the Company in the expenditure of said funds shall be final. The assessment in this paragraph provided for may be terminated and extinguished at any time by written instruments signed by the owners of one-half of the lots in all sections of Figure "8" Beach which have at said time been improved and plotted including those lots still owned by the Company.

10. In order to implement effective insect, reptile and woods fire control, the Company reserves for itself and its agents the right to enter upon any residential lot on which a residence has not been constructed and upon which no landscaping plan has been implemented (with prior written approval of the Company for such plan), such entry to be made by personnel with tractors or other

suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Company detracts from the overall beauty, setting and safety of the Figure "8" Beach. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass. The Company and its agents may likewise enter upon such land to remove any trash which has collected on such lot without such entrance and removal being deemed a trespass. The provisions in this paragraph shall not be construed as an obligation on the part of the Company to mow, clear, cut or prune any lot nor to provide garbage or trash removal services.

11. In the event the owner desires to sell a residential site within Figure "8" Beach together with its improvements, if any, then said property shall be offered for sale to the Company at the same price at which the highest bona fide offer has been made for the property, and the said Company shall have thirty (30) days within which to exercise its option to purchase said property at this price; and should the Company fail or refuse, within thirty (30) days after receipt of written notice of the price and terms, to exercise its option to purchase said property at the offered price, then the owner of said property shall have the right to sell said property subject, however, to all covenants and limitations herein contained, at a price not lower than that at which it was offered to the Company.

12. No sign of any character shall be displayed except that the owner may display on his premises his name and address and a "For Sale" or "For Rent" sign, referring only to the premises on which displayed, provided the form and size of such signs be first approved in writing by the Company.

13. Each lot owner shall provide space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on said lot in accordance with reasonable standards established by the Company.

14. Each lot owner shall provide receptacles for garbage, in a screened area not generally visible from the road, or provide underground garbage receptacles or similar facility in accordance with reasonable standards established by the Company. Each lot owner shall provide for pick-up and disposal of garbage by such private garbage collection service as is available to the owners of property in the subdivision until such time as municipal garbage service is available.

15. Prior to the occupancy of a residence on any lot, proper and suitable provision shall be made for the disposal of sewage by connection with the sewer mains of the Company, or if no such main has been constructed in the vicinity of such lot, the such disposal shall be made by means of a septic tank or tanks constructed on such lot for the disposal of all sewage, and all sewage shall be emptied or discharged into such main or tanks. No sewage shall be emptied or discharged into the ocean, any creek, marsh, river, sound or shorelines thereof. No sewage disposal system shall be

permitted on any lot nor may any sewage disposal system be used unless such system is designed, located, constructed and maintained in accordance with the requirements, standards, and recommendations of the appropriate public health authority. Approval of such system shall be obtained from such authority after the completion of said system and prior to the use of the system.

16. The Company 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 and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over the rear ten (10) feet of each lot and ten (10) feet along one (1) side of each lot and such other areas as are shown on the applicable plat; provided further, that the Company may cut drainways for surface water wherever and whenever such action may appear to the Company to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. It further reserves the right to locate wells, pumping stations, and tanks within residential areas on any walkway, or any residential lot designated for such use on the applicable plat of a residential subdivision or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Company, but this reservation shall not be considered an obligation of the Company to provide or maintain any such utility or service.

17. No structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction.

18. No trailer, tent, barn or other similar outbuilding or structure shall be placed on any lot at any time, either temporarily or permanently.

19. No fuel tanks or similar storage receptacles may be exposed to view, and may be installed only within the main dwelling house, within the accessory building, within a screened area, or buried underground.

20. No private water wells may be drilled or maintained on any residential lot so long as the Company, its agents, successors or assigns, plans a water distribution line within fifty (50) feet

of such lot with an average daily water pressure in such line adequate for normal household use in dwellings served by such distribution line; provided further, that such water distribution line must be completed within five (5) days from the date of completion of the residence or a private well may be drilled by the lot owner.

21. No large trees measuring six (6) inches or more in diameter at ground level may be removed without the written approval of the Company, unless located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building.

22. No lot shall be subdivided, or its boundary lines changed except with the written consent of the Company. However, the Company hereby expressly reserves to itself, its successors or assigns, the right to replat any two (2) or more lots shown on the plat of any said subdivision in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such replatted lot suitable and fit as a building site to include, but not be limited to, the relocation of easements, walkways and rights of way to conform to the new boundaries of the said replatted lots, provided that no lot originally shown on a recorded plat is reduced by more than twenty (20) per cent from its original size.

23. The Island Development Company expressly reserves to itself, its agents or assigns, any other provisions in this Declaration, notwithstanding the right to build any bridges, walkways or fixed spans across any or all natural or man made canals, creeks or lagoons in the Subdivision. Nothing in this paragraph shall be construed as placing an affirmative obligation on the Company to provide or construct any bridge, walkway or fixed span.

24. Owners of oceanfront lots may not remove, reduce, cut down or otherwise lower the elevation of sand dunes and ridges located on the rear (oceanside) half of any oceanfront lot to a level lower than fourteen (14) feet above mean low water, except with the written permission of the Company.

25. Owners of lots fronting on creeks, canals or sound property may erect docks (and boat houses where appropriate in the discretion of the Company) between their property and the navigable waters in front of their property upon complying with the following terms and conditions:

- (a) Complete plans and specifications including site, color or finish must be submitted to the Company in writing;
- (b) Written approval of the Company to such plans and specifications must be secured, the Company

reserving the right in its uncontrolled discretion to disapprove such plans and specifications on any grounds, including purely aesthetic reasons.

Any alterations of the plans and specifications or of the completed structure must also be submitted to the Company in writing and the Company's approval in writing must be similarly secured prior to construction, the Company reserving the same rights to disapprove alterations as it retains for disapproving the original structures.

26. All lot owners who construct or cause to be constructed said docks and/or boat houses, must maintain said structures in good repair and keep the same safe, clean and orderly in appearance at all times, and further agree to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings, and to maintain such paint or preservatives in an attractive manner. The Company shall be the judge as to whether the docks and/or boat houses are safe, clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards, and where the Company notifies the particular lot owner in writing that said dock and/or boat house fails to meet acceptable standards, said lot owner shall thereupon remedy such conditions within thirty (30) days to the satisfaction of the Company, and that failing to so remedy such conditions, the lot owners hereby covenant and agree that the Company may make the necessary repairs, but is not obligated to make such repairs or take such actions as will bring the said dock and/or boat house up to acceptable standards, all such repairs and actions to be at the expense, solely, of the lot owner in question.

27. No lot shall be increased in size by filling in the waters on which it abuts.

28. Prior to purchasing any residential property on Figure "8" Beach, the Purchaser must be approved as a member of Figure "8" Beach Homeowners' Association, Inc. and be familiar with, and by the recording of the deed to residential property in said subdivision agrees to abide by the Charter, By-Laws, Restrictions and Objects of said Association as they may be amended from time to time.

29. 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, of the Island Development Company for a period of ten (10) years from May 1, 1966, after which time all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of lots substantially affected by such changes in covenants, has been recorded, agreeing to change said covenants in whole or in part.

30. In the event of a violation or breach of any of the restrictions contained herein by any property owner, or agent of such owner, the owners of lots in the neighborhood or subdivision, or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company shall have the right, whenever there shall have been built on any lot in the subdivision any structure which is in violation of these restrictions, to enter upon such property where such violation exists, and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservations, restrictions, 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 restrictions in this Deed contained shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

31. Island Development Company specifically reserves the right to amend or change any part or all of the restrictions, covenants and conditions herein set out by filing in the Office of the Register of Deeds of New Hanover County a Declaration of Amended Restrictions which such amended, modified or additions to the restrictive covenants as contained in this declaration shall be made applicable to conveyance of residential lots made subsequent to the recording of such amended declarations.

IN WITNESS WHEREOF, ISLAND DEVELOPMENT COMPANY, has caused this instrument to be signed in its corporate name by its President, attested by its Secretary and its corporate seal hereto affixed, the day and year first above written.



[Handwritten signature]
Secretary

ISLAND DEVELOPMENT COMPANY
By *[Handwritten signature]*
President

STATE OF NORTH CAROLINA :
COUNTY OF NEW HANOVER :

I, Kathryn T. Crutchfield, a Notary Public in and for the State and County aforesaid, do certify that D.D. Cameron personally came before me this day and acknowledged that he is Secretary of Island Development Company, a corporation, and that by authority duly given and as the act of the corporation, the foregoing and annexed instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and seal, this the 30th day of April,



Kathryn T. Crutchfield
Notary Public

My commission expires: 9-1-66

STATE OF NORTH CAROLINA
New Hanover County

The Foregoing Certificate of

Kathryn T. Crutchfield

Notary Public of New Hanover County, is adjudged to be correct. Let the instrument with the Certificate be recorded.

Drawn by S. B. m. R.

This the 18 day of May 1966

Wesley D. D.
Clerk Superior Court

Received and Recorded
MAY 18 1966 12:10 P.M.

Paul Blamont Register of Deeds