

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BOCA RATON

This Declaration of Covenants, Conditions, and Restrictions is made this the fourth (4th) day of June, 1991, by BOCA RATON VENTURE (hereinafter referred to as “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of that certain property known as BOCA RATON, a subdivision in Galveston County, Texas, according to map or plat thereof recorded in Volume _____, Page _____; of the Map Records of Galveston County, Texas; and

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations, and reservations upon and against such property in order to establish a uniform plan for the development, improvement, and sale of such property and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots in said subdivision:

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon BOCA RATON, and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land,

which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

Section 1. “Association” shall mean and refer to Boca Raton Homeowners’ Association, its successors and assigns, provided for in Article V hereof.

Section 2. “Properties” shall mean and refer to Boca Raton subject to the Reservations set forth herein and/or in the Subdivision Plat, and any additional properties made subject to the terms hereof pursuant to the provisions set forth herein.

Section 3. “Lot” and/or “Lots” shall mean and refer to the Lots shown upon the Subdivision Plat which are restricted to use for residential purposes.

Section 4. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 5. “Subdivision Plat” shall mean and refer to the map or plat of Boca Raton recorded in Volume _____, Page _____ of the Map Records of Galveston County, Texas.

Section 6. “Architectural Control Committee” shall mean and refer to the Boca Raton Architectural Control Committee provided for in Article IV hereof.

ARTICLE II.

RESERVATIONS, EXCEPTIONS AND DEDICATIONS.

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat, further, establishes certain restrictions applicable to the Properties, including, without limitations, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein, made a part hereof as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred as therein or not.

Section 2. Declarant reserves the easements and right-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, sewers, or any other utility Declarant sees fit to install in, across, and/or under the Properties.

Section 3. Declarant reserves the right to make changes in or additions to the above easements for the purpose of most efficiently or economically installing the improvements.

Section 4. Neither Declarant nor any utility company using the easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, trees, shrubbery, or flowers or other property of the owner situated on the land covered by said easements.

Section 5. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone, purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner, or their agent through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties; and shall not affect the right to maintain, repair, sell or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party, and such right is hereby expressly reserved.

ARTICLE III.

USE RESTRICTIONS.

Section 1. Land Use and Building Type. All Lots shall be known and described as Lots for residential purposes only (hereinafter sometimes referred to as “residential Lots”), and no structure shall be erected, altered, placed or permitted to remain on any residential Lot other than one single family dwelling not to exceed two (2) stories in height and a detached or an attached garage for not less than two or more than four cars. Garages shall have rear or side entry and shall not

have entries that face the front of the Lot; except that attached or detached garages located at least sixty-five (65) feet from the front property line may face the front of the Lot. As used herein, the term “residential purpose” shall be construed to prohibit the use of said Lots for duplex houses, garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved onto any Lot within said subdivision, it being the intention that only new construction shall be placed and erected thereon.

Section 2. Architectural Control No building shall be erected, placed or altered on any Lot until construction plans and specifications and a plot plan showing the location of the structure thereon have been approved by the Architectural Control Committee as to harmony with existing structures, with respect to exterior design and color with existing structures, as to location with respect to topography and finished grade elevation and as to compliance with minimum construction standards more fully provided for in Article III hereof.

Section 3. Dwelling Size. The ground floor of the main residential structure, exclusive of open porches and garage, shall be not less than 1800 square feet for a one-story dwelling, nor shall the ground floor area of the main residential structure of a one and one-half (1-1/2), or a two (2) story dwelling be less than 1000 square feet.

Section 4. Type of Construction, Materials, and Landscape.

(a) Type of Construction. Unless otherwise approved by the Committee, at least sixty percent (60%) of the exterior wall area of all residences, excluding gables, and door openings must be of masonry construction. “Masonry”, as used herein, shall include brick, brick

vener, stone, stone veneer, glass, stucco, concrete, or other masonry type construction, or combination thereof. The remaining area shall be of material approved by the Architectural Control Committee.

(b) Driveways. On each Lot, the Builder shall construct, during the construction of the slab, the driveway from the garage to the abutting street, including the portion of the driveway in the street easement, and the Builder or owner shall repair at their own expense any damage occasioned by connecting the driveway to the street. All driveways shall be reinforced aggregate concrete or an optional but acceptable surfacing (brick, texture, or Bomanite), a minimum of twelve feet (12) and a maximum of twenty-four feet (24') in width, Asphalt paving is not acceptable. No motor courts are allowed.

(c) Roof Material. Roofs may take a variety of forms: gabled and hipped roofs are preferable. Mansard roofs and other "exotic" roof forms may not be used without special written consent of the Architectural Control Committee. Roof materials may be standing seam metal, aluminum shingles, marble, clay tile, concrete slate, tar and gravel or membrane process (per Committee approval) or 225# plus composition Fiberglass or asphalt shingles in a black_blend or dark brown color range. Any Fiberglass or asphalt shingle roofs should have a covered valley, unless an uncovered valley is approved by the Committee.

(d) Fences. No fence or wall shall be erected on any Lot nearer to the street than the building setback lines as shown on the Subdivision Plat. The erection of a chain link fence is prohibited. All fences shall be brick, brick and wrought iron, wrought iron, or brick and wood or wood. Maximum fence height for all Lots is six feet (6'). Notwithstanding the foregoing, the brick columns in brick and wood fences may be up to twelve inches (12") higher than the maximum fence

height for the particular area. All hedgerows or shrubs serving the same purpose as fences shall conform to height limitations for fences. Further, no fence or wall shall be erected without prior written approval of the Architectural Control Committee.

(e) Time for Completion: All exterior construction of the primary residential structure, garage, porches, and any other appurtenances or appendages of every kind and character on any Lot and all interior construction (including, but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, all cabinet work completed. All interior wall, ceilings, and doors completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposes hereof, the term “commencement of construction” shall be deemed to mean the date on which the foundation forms are set.

(f) Sidewalks: A concrete sidewalk four (4) feet wide shall be constructed from the street adjacent to the front of each Lot or from the driveway unloading area to the front of the residential structure to be situated thereon, and along the street from side Lot line to side Lot line. No other sidewalks shall be permitted on any Lot without the express written consent of the Architectural Control Committee. The plans for each residential building on each of said Lots shall include plans and specifications for such sidewalk and same shall be constructed and completed before the main residence is occupied.

(g) Window Units: No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building in any part of the Properties.

(h) Landscaping: Before any landscaping shall be done in the front of any newly constructed residential structure, the landscape layout and plans must be first approved by the Architectural Control Committee. Such landscaping is to be done on the front of the Lot at the time the residential structure is being completed and before occupancy.

(j) Antenna or Satellite Dishes: *Amended September 15, 1998.*

Antenna and satellite dishes that are one meter or smaller intended for the reception of television signals, radio signals, or citizen band signals are permitted subject to the provisions of this Section and any guidelines enacted by the Board of Directors.

- (1) Antennas. Antennas intended to receive television, radio, or citizen band signals may be installed. It is recommended that they be concealed in the attic space of the residence or garage, or located in a place not visible from the front of the structure or above the fence line.
- (2) Satellite Dishes. Satellite dishes that are one meter in size or smaller intended to receive television, radio, or citizen band signals may be installed provided the satellite dish does not project above the roof line of the home or garage, or be visible from the front of the structure or above the fence line.
- (3) Nothing in this Section requires installation of the antenna or satellite dish in a location from which an acceptable quality signal cannot be received, or in a location which unreasonably increases the cost of installation or unreasonably delays installation.

- (4) Owners are responsible for all costs associated with the antenna or satellite dish, to include:
 - (a) Placement (or replacement), repair, maintenance, and relocation or removal of the antenna or satellite dish.
 - (b) Repair of damages to common areas, other lots and any other property damaged by antennas' installation, maintenance or use.
 - (c) Pay medical expenses incurred by persons injured by antenna or satellite dish maintenance or use.
 - (d) Reimburse residents or the Association for the damages caused by antenna or satellite dish installation, maintenance, or use.
 - (e) Antennas and satellite dishes must be installed and secured in a manner that complies with all applicable city and state laws and regulations, and manufacturer's instructions.
- (5) Prohibited Antennas or Satellite Dishes. The following antennas or satellite dishes are prohibited:
 - (a) Satellite dishes larger than one meter.
 - (b) All transmission antennas or satellite dishes unless approved by the Board of Directors.
 - (c) All antennas not covered by the Federal Communications Commission rule.
 - (d) Antennas or satellite dishes that encroach upon common areas or any other Owner's property.
 - (e) The Board of Directors may require the relocation or removal of any antenna or satellite dish that interferes with the reception of television or radio signals of any other Lot in the Subdivision.

(f) Exceptions or variances to these prohibitions may be granted subject to guidelines enacted by the Board of Directors.

(6) Enforcement. If the rules in this Section are violated, the Association may bring action for declaratory relief with the FCC or any court of competent jurisdiction after notice and an opportunity to be heard. If the court or FCC determines that the Association's rule is enforceable, a fine of \$50.00 shall be imposed by the Association for each violation, plus court costs. If the violation is not corrected within a reasonable length of time, additional fines of \$10.00 per day will be imposed for each day that the violation continues. The Association shall be entitled to reasonable attorney's fees, costs, and expenses incurred in the enforcement of this policy to the extent permitted by law. The Association may seek injunctive relief to prohibit or seek removal of the installation if the antenna or satellite dish poses a serious, immediate safety hazard.

Section 5. Building Location. No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. No building shall be located nearer than ten (10) feet to any interior Lot line, except that a garage or other permitted accessory building located sixty-five (65) feet or more from the front Lot line, may be located within five (5) feet of an interior Lot line, provided, however, in no event shall such building occupy more than forty (40%) percent of the Lot. No main residence building nor any part thereof shall be located on any interior Lot nearer than twenty five (25) feet to the rear Lot line. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of the building; provided, however,

that this shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot. For the purposes of these restrictions, the front of each Lot shall coincide with and be the property line having the smallest or shortest dimension abutting a street. Unless otherwise approved in writing by the Architectural Control Committee, each main residence building will face the front of the Lot.

Section 6. Minimum Lot Area. No Lot shall be resubdivided.

Section 7. Annoyance or Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance to the neighborhood.

Section 8. Accessory Structures; Temporary Structures; Storage of Boats, Automobiles, Trailers, or Other Vehicles. *Amended September 15, 1998.*

a. Accessory Structures.

- (1) An Accessory Structure such as a storage shed, gazebo, greenhouse, in-ground or above ground swimming pool, or other type of outbuilding or structure intended or designed for permanent use on a Lot, may be erected or used on any Lot with prior written approval of the Architectural Control Committee (ACC). A building permit must be obtained from the City of Friendswood prior to erecting Accessory Structures.
- (2) Modification to an existing Accessory Structure that was previously approved by the ACC requires prior written approval of the ACC for the modification. This requirement of approval for modification also applies to any Accessory Structure erected without prior written approval of the ACC, or the Board of Directors for the

Boca Raton Homeowners' Association, Inc., with or without a building permit, that may have been granted a variance, or "grandfathered," by the Developer, a builder, the previous ACC formed prior to April 1, 1996, or the current Board of Directors.

- (3) Building plans, specifications, and a plot plan showing location must be submitted to the ACC for all proposed Accessory Structures or modifications to existing Accessory Structures in accordance with Article IV, Section 1, of these Covenants. The ACC reserves the right to approve or disapproved such requests, or require additional technical information or other data needed for its final determination in accordance with Article IV, Section 1.
- (4) Guidelines for the construction of Accessory Structures, other than in-ground swimming pools, are as follows:
Maximum size: 120 square feet.
Maximum height: 10 feet.
**Paint to match garage.
**Roof to be of same composition as a detached garage or house.
**Framing and siding to match a detached garage or house.
**Windstorm construction using hurricane straps with framing anchored to the foundation is mandatory.
**Eaves and soffits to match a detached garage or house.
**No brick front is required.
**Overhead style door must match the garage door, if used.

Concrete foundation is required.

*No type of wind turbines are allowed on the roof.

*All Accessory Structures on a corner lot must be constructed in the corner farthest from the street.

*Accessory Structures that are gazebos may be painted to match the existing garage or left natural to weather.

*All Accessory Structures must be properly maintained and present a neat and attractive appearance.

*All Accessory Structures, including in-ground swimming pools, must be constructed in accordance with local building codes and city ordinances.

- (5) The Association, acting through the Board of Directors, shall have the right to amend, modify, or abandon any of the provisions of Article III, Section 8a(4). Such changes must be consistent with and in furtherance of the general plan and scheme of the development as evidenced by this Declaration. Any change must be recorded in the minutes of the Association; the membership must be notified of the change in writing; and the change must be recorded in the Deed Records of Galveston County six (6) months after the date of the notice to the members. The members may present a "Petition for Referendum" to the Board of Directors signed by fifteen percent (15%) of the members prior to recording of the amendment document. The proposed changes will then be brought before the membership at a special meeting should the Board receive a properly signed "Petition of Referendum" prior to recording in the Deed Records. The proposed changes will then require

written agreement by signed ballots of sixty percent (60%) of the total membership. Changes will become effective immediately upon recording of the amendment document in the Deed Records.

- (6) The Board of Directors in joint decision with the ACC may grant a variance to the construction guidelines for Accessory Structures if such variance is requested by the Lot Owner. Lot Owners requesting a variance must show that granting the variance is in the best interests of the neighborhood and will not impact adversely on property value.
- b. Temporary Structures. Temporary Structures are any type of structure that is not designed to be an approved permanent Accessory Structure as outlined in Section 8a. Temporary Structures pose a potential safety hazard to the Subdivision in the event of adverse weather conditions. Therefore:
- (1) Temporary Structures such as trailers, mobile homes, modular structures/buildings, basements, tents, shacks, carports, barns, or other outbuildings may not be erected or placed on any lot for any type of use, either temporarily or permanently. The Board of Directors may develop and pass guidelines to further clarify this prohibition.
 - (2) Requests for a variance to the prohibition of Temporary Structures may be submitted to the ACC for review and consideration. Approvals for any variance granted under this Subsection will stipulate the type of structure, length of time permissible, and a date when the Temporary Structure must be removed.

Temporary Structures required for the construction of a home or modification to an existing home can be approved by the ACC under this Subsection.

c. Storage of Automobiles, Boats, Trailers, and Other Vehicles.

- (1) Motor vehicles may not be parked or stored on any part of any Lot, easement, right-of-way, or common area or in the street adjacent to any Lot, easement, right-of-way or common area unless such vehicle is concealed from public view inside a garage or other approved enclosure. However, passenger automobiles, passenger vans, motorcycles, pickup trucks, or pickup trucks with attached bed campers, that are in operating condition, having current license plates and inspection stickers, and are in daily use as motor vehicles on the streets and highways of the state of Texas, may be parked on driveways overnight. Daily use is defined as driven off of the driveway and away from the Subdivision through the normal working day.
- (2) A non-motorized vehicle, trailer, recreational vehicle, boat, marine craft, hover craft, aircraft, machinery, or equipment of any kind may not be parked or stored, in any part of any Lot, easement, right-of-way, or common area or in the street adjacent to such Lot, easement, right-of-way, or common area unless such object is concealed from public view inside a garage or other approved enclosure. Maintenance and repair of non-motorized vehicles outside of a garage or other approved enclosure is permitted provided the vehicle

is not left outside a garage or other approved enclosure overnight.

(3) This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair, or maintenance of a house or houses in the immediate vicinity.

(4) This restriction shall not apply to any recreational vehicle or trailer of a relative or visitor to a homeowner who visits for three (3) days or less. Vehicles must not be parked so that the vehicle obstructs traffic on a street. Homeowners must notify the Board of Directors in writing to request a variance to this Subsection to park recreational vehicles or trailers of a visitor longer than three (3) days. Requests for a variance must state the address, type of vehicle, and during (start and end dates) of the visit.

d. Variances. Variances to the requirements of Article III, Section 8, may be approved on a case by case basis subject to future guidelines enacted by the Board of Directors.

Section 9. Signs and Billboards. *Amended September 15, 1998.*

Lot owners are permitted to display signs subject to the provisions of this Section and guidelines issued by the Board of Directors. All Signs must be approved by the Architectural Control Committee (ACC) except for those signs exempt in Subsection a:

a. Signs not requiring ACC approval:

(1) One sign for each Lot of not more than twenty-eight (28) inches by twelve (12) inches solely advertising the Lot for sale or rent.

- (2) Security Company signs that are less than twelve (12) inches by twelve (12) inches and placed within six (6) feet of a home. Only one such sign may be visible from the street.
- (3) School activity or sports participation signs of not more than twenty-eight (28) inches by thirty-eight (38) inches shall be placed within eight (8) feet of the front entrance to a home, provided, however, such signs must not detract from the overall appearance of the Subdivision. The sign must be removed within thirty (30) days following the end of the student's participation in the activity.
- (4) Signs relating to holidays or other traditional seasonal celebrations are addressed in a separate Section of these Covenants.
- (5) Political signs that are no more than twenty-eight (28) inches by thirty-eight (38) inches and placed within eight (8) feet of the front entrance to the home. Political signs may be placed thirty (30) days prior to the election day and must be removed within forty-eight (48) hours after the election is held. Only one political sign may be on display. Homeowners wishing to campaign for several candidates must rotate the signs or combine the names of candidates to fit the size limitations.

Signs displayed under Subsection 9a must be well maintained at all times. They must be removed if faded by the sun, weathered, broken, vandalized, or if they have peeling or chipped paint. Signs not

maintained in good repair are a nuisance and annoyance to the Subdivision.

- b. Prohibitions. Exhibition and display of all other signs, billboards, posters, or advertising devices of any kind, including without limitation business, professional, or institutional signs, on any Lot, or upon any residence, or within the Subdivision, is prohibited unless the sign is approved for display by the ACC in accordance with guidelines issued by the Board of Directors.
- c. Approval. The ACC may approve written requests from residents to display signs not meeting the exceptions outlined in Subsection 9a above on a case by case basis, subject to guidelines issued by the Board of Directors.
- d. Removal of Unauthorized/Unapproved Signs and Billboards. The Board of Directors and Officers of the Association may require the removal of any such sign, advertisement, billboard, or structure placed on any Lot or within the Subdivision that violates this Section. Failure to comply with the request for removal may subject the offender to penalties enacted by the Board of Directors or actions at law.

Section 10. Reservation of Minerals. There is hereby excepted from the land encompassed by the boundaries of this subdivision, Boca Raton, and Declarant will hereafter except from all its sales and conveyances of said land or any part thereof including building Lots, all oil, gas and other mineral interests in, on and under said land, but Declarant hereby waives and will waive in each conveyance its right to use the surface of the land for development of oil, gas and other minerals, provided that Declarant hereby retains and reserves and each such conveyance will retain and reserve the right to pool the land with

other lands for development of oil, gas and other minerals and the right to drill under and through the subsurface of the land below the depth of one hundred feet (100'). Such exceptions and such retained rights and reservations shall inure to the benefit of Declarant and its successors and assigns.

Section 11. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary conditions. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot, or stored in a suitable enclosure on the Lot.

Section 12. Underground Electric Service. An underground electric distribution system will be installed in the Subdivision, which underground service area shall embrace all Lots in the Properties. The owner of each Lot in the Subdivision shall, at his cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made

available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the owner of each Lot shall, at this own cost, furnish, install, own and maintain a meter loop (in accordance with the then-current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such owner's Lot. For so long as underground service is maintained, the electric service to each Lot in the Subdivision shall be uniform in character and exclusively of the type shown as single phase, 120, 240 volt, three wire, 60 cycle, alternating current.

Section 13. Holiday and Seasonal Decorations. *Added September 15, 1998.*

- a. Holiday and seasonal decorations celebrating traditional holidays and events are encouraged and permitted. Such decorations do not require approval by the ACC or the Board of Directors. However, the ACC and/or the Board may issue guidelines governing the display of such decorations as may be required to clarify the intent of this Section.
- b. All such decorations may be displayed in and around a Lot.
- c. Decorations may be displayed no sooner than thirty (30) days prior to the holiday or event. The decorations must be removed within fifteen (15) days after the holiday, holiday season, or event for which they are intended.
- d. Owners must observe normal safety precautions when displaying holiday decorations. Decorations must not overload electrical circuits or present a safety hazard to other

residents. Owners must remove or replace damaged decorations or lights immediately.

- e. The Board of Directors may require Owners to remove decorations that either generate complaints, or that are deemed offensive or a nuisance. The Board will exercise this right sparingly.

ARTICLE IV.

ARCHITECTURAL CONTROL COMMITTEE.

Section 1. Approval of Building Plans. No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure, have been approved in writing as to harmony of exterior design and color with existing structure, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Boca Raton Architectural Control Committee. Two copies of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same are submitted to it, approval will

not be required and the requirements of this Section will be deemed to have been fully complied with.

Section 2. Committee Membership. The Architectural Control Committee shall be initially composed of Wilnah M. Hammersley, Vernon C. Hammersley, Jr., and Billy McAninch, who by majority vote, may designate a representative to act for them.

Section 3. Replacement. In the event of death or resignation of any member or members of said committee, the remaining member or members shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on and after ten (10) years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said Committee by this covenant shall cease and terminate; PROVIDED, that any time after June 1, 2001, by two-thirds (2/3rds) vote of the members present and voting, BOCA RATON Homeowners Association may assume the duties and powers of the Architectural Control Committee.

ARTICLE V.

BOCA RATON HOMEOWNERS' ASSOCIATION.

Section 1. Membership. Every person or entity who is a record owner of any of the Properties which are subject or which will be subject upon the completion of improvements thereon, to maintenance charge assessment by the Association, including contract sellers, shall be a member of the Boca Raton Homeowners' Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two classes of membership.

Class A. Class A members shall be all those Owners as defined in Section 1, (of this Article V) with the exception of the Declarant and the builder/owner of any Lot. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be BOCA RATON VENTURE, the Declarant as defined in the Declaration and the builder owner of any Lot. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by

Section 1: provided, however, that the Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On January 1, 2001.

The Class A and Class B members shall have no rights as such to vote as a class, except as required by the Texas Non-Profit Corporation Act, and both classes shall vote together upon all matters as one group.

Section 3. Nonprofit Corporation. Boca Raton Homeowners' Association, a nonprofit corporation, is to be organized; and all duties, obligations, benefits, liens, and rights hereunder in favor of the Association shall vest in said corporation, when it is created.

Section 4. Bylaws. The Association may make whatever rules or bylaws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours.

ARTICLE VI

MAINTENANCE CHARGE

Section 1. Each Lot in BOCA RATON is hereby subjected to an annual maintenance charge and assessment, for the purpose of creating a fund to be designated and known as the "Maintenance Fund", which maintenance charge and assessment will be paid by the Owner or

Owners of each Lot within Boca Raton to Boca Raton homeowners' Association on or before January 1 of each year, in advance, commencing January 1, 1992, provided, however, that the amount of such maintenance charge and assessment shall, anything to the contrary, herein notwithstanding, be chargeable and payable by the Owner or Owners of any Lot at one-half (1/2) the assessed rate until the first day of the month following the completion and occupancy of a permanent structure thereon. The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year by the Association as the needs of the subdivision may, in the judgment of the Association, require, provided that such assessment will be uniform and in no event will such assessment or charge exceed \$10.00 per Lot per month, or \$120.00 per Lot per year. The Association shall use the proceeds of said maintenance fund for the use and benefit of all residences of Boca Raton. The uses and benefits to be provided by said Association, shall include, by way of clarification and not limitation and its sole option, any and all of the following: constructing and maintaining parks, parkways, right-of-way, easements, esplanades and other public areas, payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing policemen and watchmen, caring for vacant Lots and doing other thing or things necessary or desirable in the opinion of the Association to keep the Properties in the subdivision neat and in good order, or which is considered of general benefit to the owners or occupants of the Properties, it being understood that the judgment of

the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 2. To secure the payment of the maintenance fund established hereby and to be levied on individual residential Lots, there shall be reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such Lots, the Vendor's Lien for benefit of the Association, said lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be secondary, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such maintenance fund charge accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U.S. Certified Mail, and shall contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lien holder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such first mortgage lien to the holder thereof.

Section 3. The above maintenance charge and assessment will remain effective for the full term (and extended term, if applicable) of the within covenants.

ARTICLE VII.

GENERAL PROVISIONS.

Amended September 15, 1998.

Section 1. Enforcement.

- a. **Strict Compliance Required.** Each Owner and each Owner's tenant, by acquisition of any right, title, or interest in any Lot, covenant and agree to be bound by and to strictly comply with all restrictions, covenants and conditions set forth in this Declaration of Covenants, Conditions and Restrictions (Declaration) and Articles of Incorporation, By-Laws, and Rules and Regulations (other Governing Documents) as it may from time to time or at any time, be hereafter amended.
- b. **General.** The Association, its successors and assigns, and any Owner have the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in this Declaration and in other Governing Documents, and in order to prevent a breach thereof or to enforce the observance or performance thereof have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory.
- c. **Obligation for Payment of Costs and Expenses Resulting from Violations.** After giving notice and an opportunity to be heard to the party or parties involved, the Board of Directors may levy an assessment against any Owner or tenant if the willful

or negligent failure of that Owner or tenant to comply with any provision of this Declaration or any other Governing Documents shall have resulted in the expenditure of funds. Moreover, the Board of Directors may establish procedures to and may levy administrative fines on Owners and tenants of an Owner found to have violated these covenants. All such sums will be assessed as a specific assessment, and are secured by the continuing lien established by Article VI. All such sums are due and payable to the Association thirty (30) days after notice to the Owner or tenant of the decision of the Board of Directors that the assessment or fine is owing.

Section 2. Severability. Invalidation of any one or more of these covenants, restrictions, conditions, or provisions contained in this Declaration, or any part thereof, shall in no manner affect any of the other covenants, restrictions, conditions, or provisions which shall remain in full force and effect.

Section 3. Amendment to the Deed Restrictions. The covenants and restrictions of this Declaration shall run with the land. They may be amended at any time by an instrument signed by not less than seventy-five percent (75%) of the Owners of Lots. Any amendment must be recorded in the Deed Restrictions of Galveston County, Texas.

Section 4. Books and Records. The books, records, and papers of the Association shall be subject to inspection by any member during reasonable business hours, or by appointment made with the Secretary or the Board of Directors. Copies of the Articles of Incorporation, By-Laws of the Association, and Restrictive Covenants may be purchased at a reasonable cost.

Section 5. Interpretation. If this Declaration or any word, clause, sentence, paragraph, or the part thereof shall be susceptible of

more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes of this Declaration shall govern. The Board of Directors may refer conflicting interpretations to the Association's legal representative if required to resolve such conflicts.

Section 6. Omissions. If any punctuation, word, clause, sentence, or provisions necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provisions shall be supplied by inference.

EXECUTED this fourth (4th) day of June, 1991

BOCA RATON VENTURE
A joint venture between DCF, INC. and
SUNWOOD DEVELOPMENT, INC.
By: Wilnah M. Hammersley
DCF, INC., Managing Partner
President, DCF, INC.

THE STATE OF TEXAS
COUNTY OF GALVESTON

This instrument was acknowledged before me on June 4th 1991 by Wilmah Hammersley of DCF, INC., a Texas Corporation, the Managing Partner of BOCA RATON VENTURE, on behalf of said corporation.

Cheryl R. Muddiman
Notary Public in and for the
State of Texas

This Declaration was amended by majority vote of Lot Owners under the provisions of Section 201, Texas Property Code, and the amendments duly filed in the Property Records of Galveston County, Texas, on September 15, 1998.

Curt Roberts
President, Boca Raton HOA Inc.