

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
BLOCK 27 BUCCANEER BAY

THIS DECLARATION, made on the date hereinafter set forth by BAY HILLS LIMITED PARTNERSHIP, a Nebraska limited partnership, hereinafter referred to as the "Declarant",

WITNESSETH:

WHEREAS, the Declarant is the owner of the following described real property:

Lots 1A through 20B, inclusive, and Lots 21 through 62, inclusive, all in Block 27, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska, and

WHEREAS, the Declarant will convey said Lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the Lots described in Article I.D. below shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots in the Properties. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described Lots, or any part thereof, and they shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

- A. "Association" shall mean and refer to the Block 27 Lake Lot Owners Association, Inc., a Nebraska non-profit corporation, and its successors and assigns.
- B. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot as described in Article 1.D. below, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- C. "Properties" shall mean and refer to all Lots together with the Common Properties, all in Block 27, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska.
- D. "Lot" shall mean and refer to each of Lots 1A through 20B, inclusive, and Lots 21 through 62, inclusive, all in Block 27, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska.
- E. "Declarant" shall mean and refer to Bay Hills Limited Partnership, a Nebraska limited partnership, and its successors and assigns.

- F. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, and its successors and assigns.
- G. "Common Properties" shall mean and refer to Lot 1LR and Outlots C1R, C2R, C3R and C4R, all in Block 27, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska.

ARTICLE II

ARCHITECTURAL CONTROL

- A. No dwelling, fence,(other than fences constructed by Declarant), wall, pathway, driveway, patio, patio cover or enclosure, deck, rock garden, garden, treehouse, swimming pool, television or radio antenna, satellite dishes, flag pole, solar collecting panels or equipment, tool sheds, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered, or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation, or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee, or its permission by implied approval procured in the manner set forth below.
- B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the Lot boundary lines, quality of construction, size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain neutral hues or other unobtrusive colors as determined by the Architectural Control Committee in its sole and absolute discretion will be acceptable. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.
- C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or designs.
 - 1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.
 - 2. Complete construction plans, including but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

- D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents required above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as a waiver of the requirements for approval by the Architectural Control Committee for the submitted plans.

ARTICLE III

RESTRICTIONS FOR RESIDENTIAL DWELLINGS

- A. Townhome/Duplex Lots. Lots 1A through 20B, inclusive, in Block 27, Buccaneer Bay, shall be subject to the following restrictions:
1. The Lots shall be used only for residential purposes. The Lots are designed for duplex townhome construction. Each A lot has a corresponding B Lot adjacent to it with the same number. Each Lot shall contain no more than one (1) dwelling unit, but said unit may be attached to the dwelling on the adjacent corresponding Lot, using the zero lot line concept, at the common lot line between the A lot and the B lot of the same number.
 2. No building shall be created, altered, placed or permitted to remain on any Lot other than the dwelling unit referred to above, and said dwelling unit shall conform to the following requirements.
 - a. Dwelling units will be permitted only if approved by the Architectural Control Committee and shall not be approved unless the dwelling contains more than 1100 square feet and unless they are compatible with other homes to be built in Buccaneer Bay in the opinion of the Architectural Control Committee in its sole and absolute discretion.
 - b. All buildings and improvements on all Lots shall comply with the set back requirements of the Zoning Code of Cass County as the same may be amended from time to time.
- B. Single Family Lots. Lots 21 through 62 inclusive, in Block 27, Buccaneer Bay, shall be subject to the following restrictions:
1. The Lot shall be used only for residential purposes and no Lot shall contain more than one (1) dwelling unit.

2. No building shall be created, altered, placed or permitted to remain on any Lot other than the dwelling unit referred to above, and said dwelling unit shall conform to the following requirements.
 - a. Dwelling units will be permitted only if approved by the Architectural Control Committee and shall not be approved unless the dwelling contains more than 1300 square feet and unless they are compatible with other homes to be built in Buccaneer Bay in the opinion of the Architectural Control Committee in its sole and absolute discretion.
 - b. All buildings and improvements on all Lots shall comply with the set back requirements of the Zoning Code of Cass County as the same may be amended from time to time.

C. General Restrictions. All dwelling units described in A and B above shall comply with the following restrictions.

1. All dwelling units shall have attached, enclosed, side-by-side, two (2) car garages minimum which must contain an area of not less than four hundred (400) square feet. Other or additional garages may be permitted at the discretion of the Architectural Control Committee
2. For the purposes of these restrictions, two-story height shall, when the basement is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Area means finished habitable space, measured to the exterior of the enclosing walls. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.
3. No fences may be built closer to any adjoining street than the property line. No fence may be built closer to the lot line than the building setback line of a lot line which adjoins the lake. Fences shall be subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.
4. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot or used as a residence, temporarily or permanently.
5. All dwellings shall be roofed with roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.
6. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

7. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.
8. No incinerator, or trashburner shall be permitted on any Lot. No garbage, trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other lots in the subdivision. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage is required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condensing units or heat pump units shall be placed in the rear yard of the dwelling and in no case closer than ten (10) feet to the neighboring property line. Detached accessory buildings are not permitted.
9. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile, or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any part of the Lot, outside of the garage for four (4) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper, or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.
10. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots, where capital improvements have not yet been installed, shall be allowed to reach more than a maximum height of twelve (12) inches. The Association shall have a right and easement to enter onto vacant Lots not complying with the above. The Association shall have the right to clear and/or mow Lots in violation to the above and to lien said Lots under provisions in Article IV hereof.
11. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

12. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.
13. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.
14. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, vegetable gardens and rock gardens must be approved by the Architectural Control Committee.
15. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.
16. No streamers, poster, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, dwelling or property unless approved by the Architectural Control Committee in writing. No advertising sign or posters of any kind shall be erected or placed on any of said Lots, except that residential "For Sale" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to any sign erected by the Declarant, or his agents, in his development of Buccaneer Bay or signs approved by the Architectural Control Committee in writing.
17. All driveways shall be constructed of concrete or asphaltic material.
18. None of said Lots shall be subdivided, split or in any manner combined with any other Lot, or portion of any other Lot, without approval of the Architectural Control Committee in writing.

ARTICLE IV

LAKE LOT OWNERS ASSOCIATION

- A. **Membership.** Declarant, and every Owner shall be a member of the Association as defined in Paragraph A of Article I hereof. Memberships shall be appurtenant to and may not be separated from ownership of the Lots. Ownership of a Lot(s) or a portion of a Lot shall be the sole qualification for membership. The foregoing is not intended to include persons or entities who hold any interest merely as security for the performance of an obligation.
- B. **Voting Rights.** Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot or a portion of a 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 (1) vote be cast with respect to any one (1) Lot.

C. Covenants For Maintenance Assessments.

1. **Creation of Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned, subject to Paragraph C.5. of this Article, and each Owner of any Lot, except those exempt under Paragraph C.8. of this Article, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenant, and agree to pay to the Association: (a) annual assessments or charges, (b) weed mowing and/or Lot clearing assessments, and (c) special assessments for capital improvements. All such assessments to be established and collected as herein provided. The annual assessments, weed mowing and/or Lot clearing assessments, and special assessments, together with interest, costs, and attorney's fees, shall be a charge on the Lot and shall be a continuing lien on the Lot against which each assessment is made. **ALL SUBSEQUENT PURCHASERS SHALL TAKE TITLE TO THE LOT SUBJECT TO SAID LIEN AND SHALL BE BOUND TO INQUIRE OF THE ASSOCIATION AS TO THE AMOUNT OF ANY UNPAID ASSESSMENTS.** Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person(s) who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by such person, but the lien shall continue on the Lot and the personal liability of the person who owned the Lot when the lien was created shall continue.
2. **Purpose of Assessments.** The assessments by the Association shall be used exclusively for the following purposes: (a) to maintain, repair, and operate the Common Properties, including but not limited to the lake and well on Lot 1LR, and including the improvements, structures, facilities and fixtures thereon and the grounds thereof, and personal property used in connection therewith; (b) to exercise the rights reserved to the Association in Paragraph C.10. of Article III hereof; (c) to acquire, construct, reconstruct, or replace new or existing capital improvements, structures, facilities and fixtures on the Common Properties, including personal property used in connection therewith; (d) to pay the costs and expenses of enforcing the provisions of these Covenants, Conditions, and Restrictions, including the fees of attorneys hired to represent the Association, court costs, witness fees, and related costs; and (e) to carry out such other purposes as the Association shall from time to time determine to be in the best interests of it's Members.
3. **Regular Assessment.** Before each fiscal year, the Board of Directors of the Association shall adopt and fix in reasonably itemized detail an annual budget for the then anticipated expenses and costs for that year, and shall levy and collect assessments from each Lot which, considering other sources of income, if any, shall be sufficient to fund the budget for said fiscal year. The regular assessment with respect to all Lots shall be uniform in amount.
4. **Weed Mowing and/or Clearing Assessment.** In the event the Association exercises its rights reserved in Paragraph C.10. of Article III hereof, the lien against the Lot shall be the amount the Board of Directors of the Association shall determine sufficient to cover the expense of mowing and/or clearing.

5. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a new or existing capital improvement, structure, facility, or fixture on the Common Properties, including but not limited to, personal property related thereto. Provided, however, any such assessment shall have the assent of a majority of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.
6. **Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence:
 - a. **When Assessments Start.** Beginning January 1, 1997, all Lots shall be subject to the assessments contained herein.
 - b. **When Assessed and Notice to Owners.** The Board of Directors shall fix the amount of the annual assessment to be assessed against each Lot. Written notice of the annual assessment shall be sent to each Owner subject thereto at least twenty (20) days prior to the due date of the assessment, or the first installment thereof, including the due dates and amounts thereof. The failure of the Board to so notify each Owner in advance shall not, however, relieve any Owner of the duty and obligation to pay such assessment or any installment thereof. The Board shall have the authority, in its discretion, to require that all Owners pay the annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be and become a lien as of the date of the annual assessment.
 - c. **Certificate Furnished Re: Payment of Assessment.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
7. **Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessment not paid within the thirty (30) days after the due date shall bear interest from the due date at the rate of eleven percent (11%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner as provided by law for the foreclosure of mortgages. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Properties, or abandonment of his Lot.

8. Subordination of the Lien to Mortgages or Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or the exercise of rights under a deed of trust shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but the person who owned the Lot at the time when the lien attached remains personally liable for payment of the amount of the lien.
9. Exempt Property, All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Nebraska shall be exempt from the assessments created herein.

ARTICLE V

GENERAL PROVISIONS

- A. The Declarant, or its assigns, or any Owner of a Lot within the Properties, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- B. The Covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm, corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the lots in the Properties.
- C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 23rd day of December, 1996.

DECLARANT:

BAY HILLS LIMITED PARTNERSHIP,

A Nebraska limited partnership

BY: DODGE LAND CO.

a Nebraska corporation,

the sole General Partner

BY:

W. L. Morrison, Jr., President

ATTEST:

STATE OF NEBRASKA

COUNTY OF _____) ss.

DOUGLAS

On this 23rd day of December, 1996, before me the undersigned, a Notary Public in and for said County and State, personally came W. L. Morrison, Jr., known to me to be the President of Dodge Land Co., a Nebraska corporation, which corporation is the sole general partner of Bay Hills Limited Partnership, a Nebraska limited partnership, and who acknowledged the execution to be the voluntary act and deed of such corporation, and the voluntary act and deed of said limited partnership.

Witness my hand and official seal the day and year last above written.

Notary Public