

allowed to remain on the lots in the Subdivision up to, but no longer than six consecutive months, even though not in use. The recreational vehicles, however, must continue to be maintained in good condition and appearance, and the Control Committee or the Board of Directors of the Association (when formed), shall have the right to withdraw approval of the recreational vehicle if same is not maintained in good condition and appearance. Also, any lot owner in the Subdivision shall have the right to request that the Control Committee or the Board of Directors of the Association (when formed) withdraw approval of the recreational vehicle if the same is not maintained in good condition and appearance. If approval is withdrawn as aforesaid, upon receipt of notification of the withdrawal or approval, the owner of the recreational vehicle shall promptly remove the recreational vehicle from the Subdivision.

(d) Only one recreational vehicle shall be permitted on any lot in the Subdivision at any one time.

2.2 Single Family Residence Lots.

(a) One single family residence may be constructed on any lot in the subdivision provided the following requirements set forth below are met.

(b) The term "single family residence" shall mean a structure constructed of new materials which is designed for the occupancy by a single family as a residence. A mobile home, e.g. a home designed with wheels, axle and tongue, shall not be deemed to be a "single family residence" for the purposes of this paragraph 2.2.

(c) All single family residences shall contain a minimum of 700 square feet, exclusive of garage, porch and carport in Section Six.

(d) Each single family residence must be constructed of new materials and must be completed within 6 months from date of commencement of construction. No one may occupy a single family residence prior to substantial completion thereof. No materials to be used in the construction thereof shall be allowed to remain on a lot for more than 30 days prior to construction.

(e) No single family residence shall be permitted on a lot unless written approval of the plans thereof has first been obtained from the Control Committee of the Board of Directors of the Association (when formed), which consent may be withheld. The plans for the single family residence shall be sent by certified mail, return receipt requested to Box 311, El Campo, Texas 77437 or such other address as the Association may from time to time in writing direct. If written approval or disapproval of said plans is not received by the owner within 15 days from date of receipt of said plans by the Committee or the Association, then such approval shall be deemed to have been granted.

(f) A building permit must also be obtained from Jackson County before any construction may begin.

(g) All single family residences must be connected to an approved sewer system, and must have been connected to the water supply system and the electrical system prior to occupancy thereof.

2.3 Mobile Home Lots. Mobile homes shall not be permitted on any lots in the Subdivision.

2.4 General Restrictions Relating to All Lots in the Subdivision. In addition to the above restrictions which may relate to specific lots, the following general restrictions shall apply to all lots in the subdivision.

(a) Tables and benches may be placed on a lot in the Subdivision, but no other types of personal property shall be permitted on a lot where they can be seen by other owners and visitors in the Subdivision, except when the lot is actually in use. No radio and TV antennas or screen rooms shall be allowed on any lot except when the lot is in use by the owner thereof. No "for sale" signs shall be permitted in the Subdivision for a period of one year from the date of recording hereof. Thereafter, "for sale" signs shall be permitted provided they are maintained in a neat and attractive manner and do not exceed 18" x 24" in size.

(b) No junk or abandoned boats, boat trailers or vehicles, nor vehicles, boats, and boat trailers in an inoperative condition shall be permitted to remain on any lot in the Subdivision for more than thirty (30) days.

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(c) No animals or fowl shall be kept on the lots in the Subdivision, except customary household pets.

(d) No outside toilets shall be installed or allowed on any lot in the Subdivision, except as may be installed by the Association on lots owned by the Association for the benefit of all owners in the Subdivision.

(e) No commercial activity shall be conducted on or from any lot in the Subdivision. No noxious or offensive activity shall be carried on upon any lot in the Subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Subdivisions. No guns or firecrackers may be discharged in the Subdivision.

(f) The owners or occupants of all lots in the Subdivision shall at all times keep all weeds and grass thereupon cut in a sanitary, healthful and attractive manner, and shall in no event use any lot for storage of material and equipment. Such owners or occupants shall not permit the accumulation of garbage, trash, or rubbish of any kind thereon. In the event of default on the part of the owner or occupant of any lot in the Subdivision in observing the above stated requirements, or any of them, the Control Committee or the Association (when formed) shall have the right (through its representatives) to enter upon such lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash, rubbish, etc., so as to place said lot in a neat, attractive, healthful and sanitary condition, and may bill either the owner or occupant of such lot for the reasonable cost of such work. The owner or occupant of the subject lot shall pay such bill or statement immediately upon receipt thereof. The Association shall have a lien against any lot for any such monies so advanced.

(g) No lot in the Subdivision shall be subdivided or a portion thereof conveyed except as between respective owners of full lots contiguous thereto and any such attempt to otherwise subdivide ownership of a lot shall be absolutely void.

(h) No use of any lot shall be made for any purpose that would result in the pollution of the waters above, below, or adjacent to the surface of the Subdivision. No commercial excavation for stone, gravel, shells, sand or earth shall be made on any lot in the Subdivision. Under no circumstances shall any lot owner be permitted to deliberately alter the topographic conditions of any lot in any way which would alter the natural drainage patterns in the Subdivision.

(i) No water well may be drilled on any lot in the Subdivision.

(j) All recreational vehicles, and single family residences, and all items of personal property and other improvements such as slabs, benches, tables or permanent fire places shall be set back at least 40 feet from the front of each lot and at least 5 feet from the side and 15 feet from the rear lot lines of each lot.

(k) Prior to use of the lot by the owner thereof, the owner must install an all weather driveway 20 feet wide from the edge of the street pavement to the edge of the front lot line. This driveway shall contain a drainage culvert not less than 15 inches in diameter and not less than 20 feet in length.

(l) Only fences made of chain link material not to exceed 5 feet in height shall be permitted on any lot.

(m) Detached buildings shall be permitted on all lots in the Subdivision but only if prior written approval of the plans therefor is first obtained from the committee or the association (when formed). In order to obtain such approval the plans for, or a recent photograph of, the detached building (including a site plan) shall be sent by certified mail, return receipt requested to Box 311, El Campo, Texas 77437 or such other address as the Association may from time to time in writing direct. Approval may be withheld if such out buildings are not made of new or like new materials or if the location of same would violate the restrictions or if in the opinion of the Committee or the Association (when formed) such detached building would unreasonably detract from the appearance of the Subdivision. If such approval or disapproval is not received by the owner within 15 days from receipt of the plans or photo by the Committee or Association, then such approval shall be deemed to have been granted.

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ARTICLE THREE

Easements and Utilities

Declarant hereby reserves a right-of-way easement to extend 10 feet inward 20 feet upward and an aerial easement extending an additional 20 feet inward along all lot lines of each lot for any or all utilities and drainage, whether in, on or under said easements, provided that where said utility and drainage easements are shown on the applicable Plat in greater widths and/or other location, the width and locations of such easements on the Plat shall control. Declarant further reserves an easement under, on and above all roads and streets in the Subdivisions for the purpose of installing, operating and maintaining any and all improvements in connection with the utility and drainage easements. Declarant reserves the right to assign and/or dedicate, assign and/or convey said utility and/or drainage easements and any rights and interests therein at any time and from time to time in Declarant's sole discretion. Within these easements, no structure, fences, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels. The easements include, without limitation, the right of ingress or egress thereon at reasonable times to such easements for construction, maintenance, repair and replacement purposes without consent or approval of the owner or purchaser of the applicable lot and without compensation or redress to the owner or purchaser of said lot by reason of improvements placed in the easement area by the owner or purchaser of any lot which may be removed and replaced by the Declarant and/or any person or entity having any right, title or interest in the easement, including without limitation and public authority or utility company, all without liability to and at the expense of the owner or purchaser of said lot. The easement area of each lot shall be maintained continuously by the owner of the lot covered by said easement, except for those improvements which are owned by the owner of the easement, such as the applicable public authority or utility company. Owners and purchaser shall have no cause or action against Declarant, its successors, assigns, employees and/or agents, or utility companies, water districts or other authorized entity using such easements, either at law or in equity, for any damage or otherwise caused by the installing, operating, maintaining, repairing, and/or replacing the above utility and/or drainage improvements in, on or under said easements.

ARTICLE FOUR

Property Owners' Association

4.1 A Property Owners' Association to be called the Boca Chica Property Owners' Association shall be formed by the Declarant within 30 days after the date that the Declarant no longer owns a majority of the lots in the entire Boca Chica Subdivision, unless sooner formed at the discretion of the Declarant. All lot owners, including the Declarant, in Sections One, Two, Three, Four, Five, Six and Seven (as well as all other sections of Boca Chica later designated by the Declarant) shall be members of the Property Owners' Association, and shall be entitled to one vote for each lot owned in fee. Declarant reserves the right to form an Association for one or more sections prior to completion of the entire Boca Chica Development and sale of a majority of the lots in the Development. Any such Association formed (e.g. for Sections One and Two) shall have the option to merge with the Association or Associations formed at a later date. When more than one person holds an interest in any lot, all such persons shall be members, but there shall be only one vote permitted for each lot owned. Within 30 days following the date of formation of the Association, there shall be a meeting of the Association called for the purpose of electing a Board of Directors and Officers of the Association. The Association shall be a corporation organized under the Texas Non-Profit Corporation Act. The Association shall have a Board of Directors consisting of three lot owners, (none of which shall be Declarant), and shall act by vote of a majority in interest of the owners of the Subdivision lots, voting in accordance with its procedures established herein and in accordance with its By-laws. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to this Declaration. By acceptance of a deed to any lot or lots within the Subdivision, the owner of such lot shall thereby expressly become bound by the terms, provisions and covenants herein contained, and shall be a member of the Association.

4.2 Upon the formation of the Association, all rights and duties of the Control Committee shall be automatically transferred to and vested in the Board of Directors of the Association.

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ARTICLE FIVE

Covenant for Maintenance Assessments

5.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned by it within the Subdivision, hereby covenants, and each owner of any lot in the Subdivision covenants and agrees and is deemed to covenant and agree to pay to the Committee and to the Association, when formed: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest costs, and reasonable attorney's fees, shall, to the full extent permitted by law, be a charge on the lot subject to this Declaration and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such lot in the Subdivision at the time when the assessment fell due. The Committee shall establish, collect and administer the assessments prior to the formation of the Association. After the formation of the Association, the Association shall have the duty and obligation to establish, collect and administer such assessments.

5.2 Purpose of Assessments. The assessments levied by the Committee or the Association shall be used to promote the recreation, health, safety, and welfare of the residents in the Subdivision and for the improvement and maintenance of the properties conveyed to and owned by the Association, and any other property dedicated to the Public within the Subdivisions which is not being maintained by a public entity.

5.3 Annual Assessments. Each lot in the Subdivision shall be subject to an annual maintenance charge of EIGHTY-FOUR AND NO/100 (\$84.00) DOLLARS per lot, to be paid by the record owner of each lot on January 1, of the year for which such maintenance charge is due, beginning January 1, 1986. The Committee or the Board of Directors of the Association, when formed, may increase the amount of such annual assessment by twenty percent above the previous year's annual assessment. By vote of fifty-one (51%) percent of the members who are voting in person or by proxy, at a meeting called for the purpose of increasing the annual assessment, such annual assessment may be increased by more than twenty percent per annum over the previous year's annual assessment. The Committee, or the Board of Directors of the Association, when formed, shall fix the amount of the annual assessment against each lot at least thirty (30) days before each January 1st. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date shall be March 1 of each calendar year. The Committee or the Association, when formed, shall, upon demand, and for a reasonable charge, furnish a certificate signed by a majority of the Committee or by an officer of the Association, when formed, setting forth whether the assessments on a specified lot have been paid.

5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Committee or Association, when formed, 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, maintenance, repair or replacement of the property and improvements owned by the Association and for any other purposes as may be deemed necessary or desirable by the Committee or the Board of Directors of the Association, when formed, provided that any such assessment must have the assent of fifty-one (51%) percent of the members who are voting in person or by proxy at a meeting duly called for this purpose.

5.5 Notice and Quorum for any Action Acquired Under 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under 5.3 and 5.4 shall be sent to all members not less than 15 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) percent of all of the members entitled to vote shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

5.6 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots. However, the Association may assess individual lot owners the reasonable cost of mowing and cleaning such owner's lot as provided in paragraph 2.4 (f) above.

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5.7 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all lots on the first day of January, 1986, and shall continue each year thereafter for the duration of this Declaration.

5.8 Effect of Non-Payment of Assessments: Remedies. Any assessment not paid on the date when due, shall be immediately delinquent and shall, together with such interest and cost of collection as is hereinafter provided, immediately become a continuing lien on the Property which shall, to the full extent permitted by law, bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of twelve (12%) percent per annum, and the Committee, or the Association, when formed, may either (1) bring an action at law against the owner personally obligated to pay the same, or (2) foreclose the lien against the property, or (3) both, and, in either event, there shall be added to the amount of such assessment interest as provided and all costs of collection, including reasonable attorney's fees. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the fishing pier, bathhouse or any other property dedicated to the Public within the Subdivision which is not being maintained by a public entity, or by abandonment of his lot.

5.9 Subordination of the Lien to Mortgagees. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not effect the assessment lien. No sale or transfer shall relieve such lot owner from liability for any assessments thereafter becoming due or from the lien thereof. No extinguishment of the lien shall relieve the delinquent owner from his personal obligation and liability therefor.

5.10 Non-Abatement of Assessments. No diminution or abatement of assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs or improvements to the property within the Subdivision which is not being maintained by a public entity, or from any action taken to comply with any law, ordinance or order of a government authority.

5.11 Right to Waive Collection. The committee, or the Association, when formed, shall have the right to waive the collection of the annual fee in the event the County of Jackson elects to undertake the maintenance, improvement and repair or any property dedicated to the Public within the Subdivision which is not being maintained by a public entity.

ARTICLE SIX

Maintenance

6.1 Association Properties. The Committee, or the Association, when formed, shall improve, maintain, repair, and otherwise care for the properties conveyed to and owned by the Association and any other property dedicated to the Public within the Subdivision which is not being maintained by a Public entity.

6.2 Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any owner, his family, guests or invitees, the Committee, or the Association, when formed, shall add the cost of such maintenance, as a Special Assessment, to the normal assessment of such owner.

ARTICLE SEVEN

General Provisions

7.1 Term. Covenants and Conditions of this Declaration shall run with the lots in the Subdivision subject hereto and shall be binding upon all owners of such lots and all persons claiming under them for a period of twenty (20) years from the date this Declaration is filed of record in the Deed Records of Jackson County, Texas, after which time these Covenants shall be automatically extended for successive periods of ten years, unless an instrument of termination in writing, executed and acknowledged by seventy-five (75%) percent of the owners of fee title to the lots in the Subdivision subject hereto, is filed of record in the Deed Records of Jackson County, Texas. The instrument of termination shall be effective to terminate this Declaration at the expiration date of the initial twenty (20) year term if said instrument is filed of record as set forth above during the initial 20 year term, or if such instrument is filed of record as set forth above during any 10 year

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period of extension, this Declaration shall terminate at the end of said 10 year period of extension.

7.2 Amendments. This Declaration and any or all of the conditions set out herein may be amended by an instrument of amendment meeting the following requirements: The instrument of amendment shall be in writing and shall be executed and acknowledged by seventy-five (75%) percent of the owners of fee title of the lots in the Subdivision subject hereto, and must be filed of record in the Deed Records of Jackson County, Texas; provided, however, the Declarant hereby reserves and shall at all times have the right to amend this Declaration without the consent of any other person for the purpose of correcting any typographical or other error in this Declaration. The instrument of amendment shall be deemed to be effective on the date the instrument is filed of record in Jackson County, Texas. Any amendment to this Declaration shall be binding on all lots in the Subdivision subject hereto and the owners thereof, after the effective date thereof.

7.3 Notice. Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid, certified mail, return receipt requested, to the last known address of the person who appears as owner on the records of Declarant or the record of the Committee, or Association, when formed, at the time of such mailing. This Section shall never be deemed to obligate Declarant and/or the Committee, or Association, when formed, to maintain records of addresses or to give notices. It shall be the duty of each owner to keep Declarant and/or the Committee, or Association, when formed, currently advised as to the addresses of owners.

7.4 Declarant. The term "Declarant" shall mean the above named Declarant, its successors and assigns, and shall include any person or entity to which Declarant may assign and/or delegate its rights and privileges, duties and obligations hereunder, which rights and privileges, duties and obligations are and shall be assignable. In this connection, Declarant shall have the right but not the obligation to assign his rights and privileges, duties and obligations, in whole or in part, to any persons, civic group and/or the Committee, or the Association, when formed. Declarant shall be relieved of any and all responsibility under this Declaration if and to the extent Declarant shall make such assignments.

7.5 Severability. In the event that any of the provisions of this Declaration conflict with any other provisions hereof and/or with the applicable Plat, the more restrictive provisions shall govern. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected hereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been imposed and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses and phrases shall become or be illegal, null or void.

7.6 Enforcement. If any person shall violate or attempt to violate this Declaration or any of the conditions or covenants herein, it shall be lawful for Declarant, Committee or any Members thereof, the Association, or any owner of any lot in the Subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate this Declaration or any such conditions or covenants and to prevent such violation and or to recover damages for such violation, including reasonable attorney's fees and in general to pursue and seek such other remedies and/or relief as may be permitted at law and/or equity, including without limitation specific performance.

7.7 Subordination. The present owners and holders of certain Vendor's Lien and lien of Deed of Trust covering the property comprising the Subdivision, do by the execution of this instrument join in the above reservations, restrictions, easements and covenants on each and every lot therein, and agree that the dedication by the Plat of said property of record in the office of the County Clerk of Jackson County, Texas, shall continue in full force and effect and be binding upon the undersigned; and the undersigned do by the execution of these covenants, agreements, reservations and easements subordinate their respective Deeds of Trust and Vendor's Lien covering

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SESSIONAL COORDINATOR
SOUTHERN DISCOUNT
911 WEST JACKSON
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(817) 541-2288

the said Subdivision to the restrictions contained herein and on the dedicated Plat of said Subdivision.

EXECUTED this 2nd day of July, 1985.

BOCA CHICA DEVELOPMENT COMPANY
"DECLARANT"

By: F. E. APPLING INTERESTS,
a Texas General Partnership

By: [Signature]
Floyd Appling, Jr.
Managing General Partner

[Signature]
James R. Hall

F. E. APPLING INTERESTS,
a Texas General Partnership
"LIENHOLDER"

By: [Signature]
Floyd Appling, Jr.
Managing General Partner

THE STATE OF TEXAS

§

COUNTY OF WHARTON

§

This instrument was acknowledged before me on July 2nd, 1985 by FLOYD E. APPLING, JR., Partner, on behalf of F. E. Appling Interests, a Texas General Partnership, as joint venturer in Boca Chica Development Company.



[Signature]
Notary Public, State of Texas
RANDY M. CLAPP
Commission Expires 12-22-87

THE STATE OF TEXAS
COUNTY OF WHARTON

§

§

This instrument was acknowledged before me on July 2nd, 1985 by James R. Hall, as joint venturer in Boca Chica Development Company.



[Signature]
Notary Public, State of Texas
RANDY M. CLAPP
Commission Expires 12-22-87

THE STATE OF TEXAS
COUNTY OF WHARTON

§

§

This instrument was acknowledged before me on July 2nd, 1985 by Floyd Appling, Jr., Partner, on behalf of F. E. Appling Interests, a Texas General Partnership.



[Signature]
Notary Public, State of Texas
RANDY M. CLAPP
Commission Expires 12-22-87

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MCDONALD, P.C.
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135,533

DECLARATION OF RESTRICTIONS,
COVENANTS AND CONDITIONS OF
SECTION SIX OF
BOCA CHICA SUBDIVISION

BOCA CHICA DEVELOPMENT CO., ET AL

7/2/85 Fee: \$17.00

FILED FOR RECORD THIS THE 3rd
day of July A. D., 1985 at
2:00 P.M.

MARTHA KNAPP, COUNTY CLERK
JACKSON COUNTY, TEXAS

BY Dora Garza DEPUTY
DORA GARZA

HOLD FOR: MORGAN, CLAPP,
MEINARDUS & McDONALD

VOL 667 PAGE 828

RECORDED THIS THE 9th DAY OF JULY, A. D., 1985 AT 2:02 O'CLOCK P. M.
MARTHA KNAPP, COUNTY CLERK BY Susie Rau DEPUTY