

**DECLARATION
OF COVENANTS
AND
RESTRICTIONS
PLAT NO. 1 OF
BREAKAWAY
TRAIL SUBDIVISION**

THIS DECLARATION is made this _____ day of _____, 2006 by Whiting-B, L.L.C.. Where no distinction is required by the context, Whiting-B, L.L.C. will be referred to in the Declaration as the "Declarant".

Declarant is the owner of fee simple title in and to that certain real property situated in Boone County, Illinois, known as Plat No. 1 of Breakaway Trail Subdivision, as shown on the plat (the "Plat") of subdivision recorded as Plat of Subdivision in the office of the Recorder of Deeds of Boone County, Illinois, on January 18, 2006, and recorded as Document No. 2006R00702 in Envelope No. 340-A and which is referred to in this Declaration as the "Subdivision".

The Subdivision consists of Thirty-seven (37) residential lots numbering 1-37 inclusively as shown on the Plat. It is the intention and desire of Declarant that the Subdivision be developed into a first class, protected community of homes, and it is the present purpose of Declarant in executing this Declaration to subject the Subdivision to the restrictions, conditions and covenants set forth below, each and all of which are for the benefit of each current and subsequent owner of any parcel in the Subdivision.

NOW, THEREFORE, in consideration of the recitals set forth above, Declarant declares and agrees that:

1. Restrictions. Until December 31, 2025, each lot in the Subdivision shall be held, sold and conveyed subject to the following restrictions and conditions, which shall be construed as covenants running with the land, binding on all parties having any right title or interest in the Subdivision or any part of the Subdivision and on their heirs, successors and assigns (all of whom are collectively referred to as "Lot Owners" and individually referred to as "Lot Owner") and shall inure to the benefit of each Lot Owner. After December 31, 2025, the restrictions and conditions shall continue to run with and bind the land after that date until and unless the fee owner or owners

of at least two-thirds (2/3) in number of the lots in the Subdivision agree in writing to modify or terminate any one or all of the restrictions and conditions. The modification or termination may be made at any time after December 31, 2025, by a written agreement stating the manner and extent of any modification or the date of termination, signed and acknowledged by the fee owner or owners of at least two-thirds (2/3) in number of the lots of the Subdivision and filed in the Office of the Recorder of Deeds of Boone County, Illinois. The Subdivision shall be subject to the following covenants, restrictions, and conditions:

- a) No building shall be erected, maintained or used on any lot for manufacturing, commercial industrial or business purposes and no noxious or offensive activity shall be carried upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance;
- b) No building shall be erected or maintained on any lot unless it is a single-family dwelling house with a 2 or 3 car attached garage designed and equipped for occupancy only as a private residence for a single-family. No more than one single-family dwelling shall be maintained on any one lot at the same time. No outbuildings or detached garages shall be approved unless they are of the same architectural style and constructed of the same grade of materials as the dwelling located on the lot. A blacktop, concrete or other mat surface driveway shall be installed and maintained in accordance with the applicable standards. The restrictions set forth in this paragraph shall not apply to any temporary facility used by a contractor during the course of construction which temporary facility is removed at the completion of construction;
- c) In-ground and above ground swimming pools may be constructed or maintained on any lot;
- d) Each Lot Owner shall comply with all applicable requirements of the governmental bodies having jurisdiction over the property;
- e) No visible tank for the storage of oil, gas, or any other material shall be erected or maintained on any lot;
- f) No stables, kennels, or other quarters shall be erected, maintained or used on any lot for stabling or accommodating any horses, dogs, cattle, swine, goats, sheep, bees, fowl, or any other animals;
- g) Each single-family dwelling constructed in the Subdivision shall comply with the following minimum area requirements (exclusive of the area of any open porches, garage or basement): (1) 1,650 square feet finished on the main floor for any ranch or exposed ranch; (2) 2,200 square feet finished for any two-story residence; and (3) 1,750 square feet finished for any tri-level residence. With respect to tri-levels, unfinished family rooms shall be included for purposes of determining square footage. A 10% reduction of the minimum area requirements may be allowed by Declarant based on the architectural merit of other proposed plans;

- h) With the exception of houses constructed by Three Hammer Construction, Inc., no dwelling house shall be erected or placed on any lot until and unless the plans and specifications for the same have been first submitted to and approved in writing by the Declarant before the construction building permit is issued. Declarant, in its sole discretion, shall determine whether or not the nature, shape, color, height, exterior elevations and building materials are appropriate and acceptable for the Subdivision;
- i) A wood, iron or vinyl fence not exceeding six (6) feet in height may be constructed and maintained in the rear yard of any lot, provided such fence is properly maintained, is located on the property line, complies with any applicable governmental codes and no portion of the fence shall be further from the rear lot line of such lot than the rearmost corner portion of the house on such lot. Chain link or wire fencing is prohibited;
- j) With the exception of improvements constructed by Three Hammer Construction, Inc., all plans and specifications for any improvements must be submitted in writing by the Lot Owner and approved by Declarant before commencement of any construction. If the Declarant fails to approve or reject any plans or specifications within thirty (30) days after its submission, the plans and specifications in question shall be deemed not to be approved;
- k) No advertising sign or billboard, other than a single temporary "For Sale" or "For Rent" advertising sign of not greater than four (4) square feet in size shall be erected or maintained on any lot. A sign displaying the name of the general contractor and/or architect of the house may be erected during construction of said home provided that the sign does not exceed eight (8) square feet in area and is removed immediately after the completion of the construction; and

2. Covenants Run With The Land. Each grantee of Declarant, by acceptance of a deed of conveyance, accepts the same subject to all the restrictions, conditions, covenants and reservations set forth in this Declaration, and to the jurisdiction, rights and powers of the Declaration. All of the impositions and obligations imposed under this Declaration shall run with the land and bind every Lot Owner of any interest in each lot or part of a lot in the Subdivision and inure to the benefit of every owner in like manner. Each Lot Owner in the Subdivision and the Declarant shall be entitled to enforce any provision of this Declaration by proceedings at law or in equity against any person or persons violating or attempting to violate any of the provisions either to restrain violations, to remove violations, or to recover damages.

3. Waivers. No restrictions imposed under this Declaration shall be abrogated or waived by any failure to enforce any of the provisions, no matter how many violations or breaches may occur.

4. Partial Invalidity. The invalidity of any restriction or of any provision of this Declaration, or of any part of any restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.
5. Assignment. The rights, privileges and power retained by Declarant shall be assignable to, and shall inure to the benefit of, its successors and assigns.
6. Release. Notwithstanding anything to the contrary contained herein, Declarant shall preserve the right to waive, in whole or in part, any covenant or restriction set forth in this declaration.

The Declarant has executed this Declaration on the date set forth above.

Whiting, L.L.C.

By: _____

STATE OF ILLINOIS)
)
 COUNTY OF WINNEBAGO)

I, the undersigned, a Notary Public in and for the Winnebago County and State of Illinois, and residing in Winnebago County, do certify that _____, personally known to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes hereinabove set forth.

Given under my hand and notarial seal this _____ day of _____, 2006.

 Notary Public

Document Prepared by and Return to:

Three Hammer Construction, Inc.
 1515 Elmwood Road
 Rockford, IL 61103
 (815) 633-7619

**DECLARATION OF COVENANTS
AND RESTRICTIONS**

**DAKOTA HILLS
SUBDIVISION**

THIS DECLARATION is made this 9th day of January, 2007, by **B.R. PROPERTIES, INC.**, an Illinois Corporation, hereinafter sometimes referred to "Declarant."

Declarant is the owner of fee simple title in and to that certain real property situated in Stephenson County, Illinois, known as Plat No. 1 of Dakota Hills Subdivision, as shown on the Plat (the Plat) of Subdivision recorded as Plat of Subdivision in the Office of the Recorder of Deeds of Stephenson County, Illinois on _____ as Document No. _____, and which is referred to in this Declaration as the "Subdivision."

The Subdivision consists of residential lots numbered 1 through 9 as shown on the Plat. It is the intention and desire of Declarant that the Subdivision be developed into a first-class, protected community of homes, and it is the present purpose of the Declarant in executing this Declaration to subject the homes to the restrictions, conditions and covenants hereinafter set forth, each and all of which are for the benefit of the current and subsequent owner of any parcel of the Subdivision.

NOW, THEREFORE, in consideration of the recitals set forth above, Declarant declares and agrees as follows:

1. **RESTRICTIONS.** Until August 1, 2026, each lot in the Subdivision shall be held, sold and conveyed subject to the following restrictions and conditions, which shall be construed as covenants running with the land, binding on all parties having any right, title or interest in the Subdivision and their heirs, successors and assigns (all of whom are collectively referred to as "Lot Owners" and individually referred to as "Lot Owner" and shall inure to the benefit of each Lot Owner. After August 1, 2026, the restrictions and conditions shall continue to run with and bind the land after that date until and unless the fee owner or owners of at least two-thirds in number of the lots in the Subdivision agree in writing to modify or terminate any one, or all of the restrictions and conditions. The modification or termination may be made at any time after August 1, 2026, by a written agreement stating the manner and extent of any modification or the date of termination, signed and acknowledged by the fee owner or owners of at least two-thirds in number of the lots of the Subdivision and filed in the Office of the Recorder of Deeds of Stephenson County, Illinois. The Subdivision shall be subject to the following covenants, restrictions and conditions:

1.1 No building shall be erected, maintained or used on any lot for manufacturing, commercial, industrial or business purposes and no noxious or offensive activity shall be carried upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance.

1.2 No building shall be erected or maintained on any lot unless it is a single-family dwelling house with a two or three car attached garage designed and equipped for occupancy only as a private residence for a single family. No more than one single-family dwelling shall be maintained on any one lot at the same time. A blacktop, concrete or other mat surface driveway shall be installed and maintained in accordance with the applicable standards. The restrictions set forth in this paragraph shall not apply to any temporary facility used by a contractor during the course of construction which temporary facility is removed at the completion of construction.

1.3 No outbuildings shall be erected on any lot without first obtaining the architectural and design written approval of the Declarant if less than 100% of all the lots have not been transferred by Deed from the Declarant. After at least 100% of the lots have been transferred by Deed by the Declarant, 60% of the Lot Owners may form an architectural design committee, whose approval shall be required before the erection of any outbuilding on any lot. If the owners have not designated an architectural design committee, then no outbuilding shall be erected on any lot without first obtaining the approval of 60% of the owners of the lots within the Subdivision for such outbuilding.

1.4 No aboveground swimming pools may be constructed or maintained on any lot, without prior written architectural and design approval from the Declarant or architectural design committee.

1.5 No visible tank for the storage of oil, gas or any other material shall be erected or maintained on any lot.

1.6 With the exception of houses constructed by Three Hammer Construction, Inc., hereinafter referred to in this Declaration as "THC", no dwelling house shall be erected or placed on any lot until and unless the plans and specifications for the same have been first submitted to and approved in writing by Declarant before the construction building permit is issued. Declarant, in its sole discretion, shall determine whether or not the nature, shape, color, height, exterior or elevations and building materials are appropriate and acceptable for the Subdivision.

1.7 No kennels or other quarters shall be erected, maintained or used on any lot for accommodating any dogs, cats, cattle, swine, goats, sheep, bees, fowl or other animals with the exception of horses. Provided, however, a dog run for no more than four dogs may be attached to the rear of a house only if place and specifications are approved in writing prior to construction by the Declarant. No farm animals other than horses shall be allowed or kept on any lot.

1.8 No fence of any type may be erected in the front yard or side yard of any lot. Any fence must comply with all applicable governmental codes and may be erected only in the rear yard.

1.9 Except as provided in Paragraph 1.3 and Paragraph 1.6 hereof, all plans and specifications for any improvements must be submitted in writing by the Land Owner and approved by Declarant before commencement of any construction. If Declarant fails to approve or reject any plans or specifications within 30 days after its submission, the plans and specifications in question shall be deemed not to have been approved. After all of the lots have been transferred by the Declarant, then 60% of the Lot Owners may form an architectural committee to perform Declarant's functions of this Paragraph 1.9.

1.10 No advertising sign or billboard, other than a single temporary "For Sale" advertising sign of no greater than three square feet in size shall be erected or maintained on any lot.

1.11 No lot may be re-subdivided without the prior written consent of the Declarant or the architectural committee referred in paragraph 1.3 above.

1.12 No owner shall permit the storage of refuse, including non-functioning or junk vehicles, on the lot outside an enclosed garage or building, except for the purpose of regular weekly garbage pickup.

2. **AMENDMENT.** The provisions of this Declaration, except for the provisions of Paragraph 1, may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed by Lot Owners having at least 75% of the lots. Prior to the sale of 75% of the lots in the Subdivision, Declarant reserves the rights to make such amendments as are not materially detrimental to the Lot Owners. The amendment, change, modification or rescission accomplished under the provisions of this paragraph shall be effective upon recordation of the instrument in the Office of the Recorder of Deeds of Stephenson County, Illinois.

3. **COVENANTS RUN WITH THE LAND.** Each grantee, and all successors thereafter, of Declarant, by the acceptance of a deed conveyance, accepts the same subject to all the restrictions, conditions, covenants and reservations set forth in this Declaration, and to the jurisdiction, rights and powers of Declarant created or reserved by this Declaration. All of the impositions and obligations imposed under this Declaration shall run with the land and bind every Lot Owner of any interest in each lot or part of any lot in the Subdivision and inure to the benefit of every owner in a like manner. Each Lot Owner in the Subdivision and Declarant shall be entitled to enforce any provision of this Declaration by proceedings at law or in equity against any person or persons violating or attempting to violate any of the provisions either to restrain violations, to remove such violations or to recover damages.

4. **WAIVERS.** No restrictions imposed under this Declaration shall be abrogated or waived by any failure to enforce any of the provisions, no matter how many violations or breaches may occur.

5. **PARTIAL INVALIDITY.** The invalidity of any restriction or of any provision of this Declaration, or any part of any restriction or provisions, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

6. **ASSIGNMENT.** The rights, privileges and power retained by Declarant shall be assignable to and shall inure to the benefit of its successors and assigns.

The Declarant has executed this Declaration on the date set forth above.

B.R. PROPERTIES, INC.,

By: 

EDWARD HORNBECK, President

STATE OF ILLINOIS)
)
COUNTY OF WINNEBAGO)

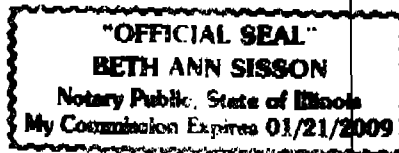
SS.

I, the undersigned, a Notary Public in and for the County of Winnebago and State of Illinois, do certify that **EDWARD HORNBECK**, individually, and as President of **B.R. PROPERTIES, INC.**, personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and the free and voluntary act of **B.R. PROPERTIES, INC.**, for the uses and purposes hereinabove set forth.

Given under my hand and notarial seal this 9th day of January, 2007.

Beth Ann Sisson

NOTARY PUBLIC



Prepared by and Return to:
Stephen G. Balsley
**BARRICK, SWITZER, LONG,
BALSLEY & VAN EVERA**
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