

DECLARATION OF PROTECTIVE COVENANTS

FOR

BIRCH HARBOR ESTATES

KACHEMAK BAY DEVELOPMENT CORPORATION, hereinafter called "GRANTOR", an Alaska corporation, is the owner of all that real property within the subdivision named BIRCH HARBOR ESTATES, in the Palmer Recording District, Third Judicial District, State of Alaska, save and except that portion of such subdivision which has been dedicated to the public for streets and parks, the plats of which, for Unit I, were filed under Plat Number 73-58, and for Unit II, under 73-59.

GRANTOR hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon GRANTOR and upon all persons claiming under GRANTOR and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

GENERAL CONDITIONS

1. All restrictive covenants listed and/or contained herein are subject in all instances to compliance with State of Alaska and Matanuska-Susitna Borough health ordinances, restrictions and regulations, zoning regulations or other established pertinent restrictions.

2. These restrictive covenants, easements, reservations and requirements upon the lands within said subdivision and any amendments thereto shall run with the land and remain in full force and effect for a period of forty (40) years from and after the date hereof.

3. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant; whether to restrain such violation(s) or to recover damages.

4. These covenants and restrictions are severable and the invalidation of one shall not invalidate any other covenant hereof and each covenant shall be independent to such extent.

5. Grantor reserves the right to subsequently file restrictions of record designating the use classification of each lot or tract of land in said subdivision, or any unit thereof.

6. The Grantor, its successors, assignees or duly authorized agent or agents, by recorded instrument, reserve the right to subsequently amend, alter, or change these covenants and restrictions (and use restrictions) subsequently filed, from time to time by filing an amendment thereto upon the public records of the Matanuska-Susitna Borough, State of Alaska, provided, however, that no amendment shall be made which changes the use classification of any lot which has been sold without the prior written consent of the Buyer of said lot.

7. Wherever any act or approval is required of developer under these restrictions, the developer may designate an agent or committee to act on its behalf.

RESTRICTION A

UNIFORM GENERAL REQUIREMENTS

1. Easements and rights-of-way are hereby expressly reserved for the creation, construction and maintenance of utilities, such as water, telephone, electricity, sewers, storm drains, public, quasi-public and private, as well as for any public, private or quasi-public utility or function deemed necessary and/or expedient for the public health and welfare. Such easements and rights-of-way shall be confined to the rear ten (10) feet of every lot and five (5) feet along each side line of every lot, and the front five (5) feet of every lot. Along curved property lines, overhead utility lines are permitted beyond the front five (5) foot and rear ten (10) foot easement, not to exceed ten (10) feet beyond said easement, to the extent necessary to service all lots in a particular block. Overhead service wires are permitted across corners of rear yards where side lot lines do not join in the rear.

2. No mobile homes shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said mobile home is to be removed upon completion of the permanent dwelling. Said mobile home is to be removed within twelve months after start of construction.

3. The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction, and trees may be thinned so long as the natural beauty and esthetic value of the natural foliage is retained.

RESTRICTION B

USE CLASSIFICATIONS ESTABLISHED

Lots in the subdivision shall be classified by permitted uses. The permitted uses and set-backs for each permitted use classification are as follows:

A. Residential.

1. Single-family lots

- a. Lots of this classification shall be used only for single-family homes, including accessory buildings.
- b. Buildings shall be set back a minimum of twenty-five (25) feet from front or twenty (20) feet from rear lot lines, a minimum of ten (10) feet from side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

2. General Provisions. An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main building and which is located on the same lot as the main building such as private garage or garden tool storage shed.

B. Commercial. Any lot used or designated as for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted.

MISCELLANEOUS RESTRICTIONS

1. No noxious or offensive activity shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein. No trash or debris shall be permitted to remain upon any lot for any period of time in excess of that normally required for regular garbage disposal. No trade or business of any nature shall be permitted upon any lot in the subdivision.

2. No inoperable vehicle shall be parked or maintained upon any lot or within any street or alley or easement, adjacent to any lot in the subdivision. A vehicle temporarily parked for repair by the owner or under the owner's directions, for a period of not to exceed thirty (30) days (subject to the availability of parts) shall not be considered a violation of this provision.

3. Every purchaser, his heirs, successors and assigns in the ownership of lots in this subdivision, agree, as a condition of purchase and sale, that at such time as sixty (60) percent of the lots in the subdivision are owned by persons other than the developer, that they will jointly form themselves into a property owners association to be called BIRCH HARBOR ESTATES HOME OWNERS ASSOCIATION. Each owner of a lot in the Subdivision shall automatically be and become a member of such association and be bound by its governing regulations. The owner of each lot shall have an equal voice and vote with the owner of each other lot in the Subdivision as to the election of members to serve as officers and directors of such

association. Membership in such association shall be limited to owners of lots, whether one or more, in the Subdivision. The association shall contract and pay for street maintenance and snow removal within the Subdivision, and for garbage disposal services, street lighting and other reasonable undertakings mutually desired by the property owners in such Subdivision. All costs and assessments of the said association shall be borne rateably by the lot owners.

The purchasers and lot owners and members of said association shall be further bound when sixty percent (60%) of the lots have been sold by the developer to take over and provide for the cleanliness and development of the Recreational Park dedicated to the public in this Subdivision. The Grantor shall thereby be relieved of any obligation to develop, maintain or clean said Park.

IN WITNESS WHEREOF, this declaration of protective covenants is made and executed this 23 day of November 1973.

KACHEMAX BAY DEVELOPMENT CORP.

By: Mel Tipton
14 Jeff Hearne
att. in fact


STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.:

THIS IS TO CERTIFY that on the 29 day of November 1973, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared MEL TIPTON by and through his attorney-in-fact, Jeff Hearne, to me known to be the President of KACHEMAX BAY DEVELOPMENT CORPORATION, a corporation, and known to me to be the person who executed the within instrument on behalf of the corporation herein named, and acknowledged to me that the same was signed as a free act and deed of the said corporation for the uses and purposes therein stated and pursuant to its Bylaws or a regulation of its Board of Directors.

WITNESS my hand and notarial seal the day and year
last above written.

Arthur E. White
Notary Public in and for Alaska
My commission expires: 1965

74 002994
15.00

RECORDED-ELECT
PALMER REC.
DISTRICT

NOV 20 2 39 PM '74

REQUESTED BY *Barth Hauler Estate*
ADDRESS *700 H. St. Suite #8*
Anchorage, Alaska
99501

Rec 586578

PALMER 74-2-195

BOOK 83 (6) 1-15 PAGE 87
Palmer Recording District

AMENDMENTS TO DECLARATIONS OF
PROTECTIVE COVENANTS

OF

BIRCH HARBOR ESTATES

WHEREAS, a Declaration of Protective Covenants for Birch Harbor Estates was duly made by Kachamak Bay Development Corporation on November 23, 1973, and

WHEREAS, Kachamak Bay Development Corporation was designated as the Grantor in said Declaration of Protective Covenants, and

WHEREAS, Paragraphs 5 and 6 of said Declaration of Protective Covenants reserves unto the Grantor the right to subsequently file restrictions of record designating the use classification of each lot in the subdivision and to amend, alter or change the covenants and restrictions by filing an amendment thereto upon the public records of the Matanuska-Susitna Borough, State of Alaska, and

WHEREAS, the Grantor desires to amend said protective covenants

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, Kachamak Bay Development Corporation, hereinafter called the "Grantor" amends the Declaration of Protective Covenants for Birch Harbor Estates as follows:

1. Lots One (1), Two (2), Eighteen (18) through Thirty (30), Block One (1), Lots Twelve (12) through Twenty-six (26), Block Five (5) and Lots One (1) through Fifteen (15), Block Six (6) in Unit One of Birch Harbor Estates, Palmer Recording District, Third Judicial District, State of Alaska,

are to be designated as commercial lots and to be zoned B-3 according to the zoning ordinances of the Matanuska-Susitna Borough, State of Alaska.

COLE, MARTIN,
HODGES & NORMAN
ATTORNEYS AT LAW
177 R STREET
ANCHORAGE, ALASKA
99501
TELEPHONE
266-1470

2. Lots Four (4) through Ten (10), Block One (1) and Lots One (1) through Twelve (12), Block Two (2) in Unit Two of Birch Harbor Estates, Palmer Recording District, Third Judicial District, State of Alaska,

are to be designated as commercial lots and to be zoned B-3 according to the zoning ordinances of the Matanuska-Susitna Borough, State of Alaska.

3. As herein and hereby amended, the Declaration of Protective Covenants for Birch Harbor Estates, declared November 23, 1973, are reaffirmed and restated in their entirety.

IN WITNESS WHEREOF, this Amendment to the Declaration of Protective Covenants is made and executed this 29TH day of March, 1974.

74-002995

KACHAMAK BAY DEVELOPMENT CORPORATION

RECORDED FILED
PALMER REC.
DISTRICT

By: Mel Tipton
MEL TIPTON, President

MAY 2 2 42 PM '74

REQUESTED BY Birch Harbor Estates
ADDRESS 700 H. St. Suite 8
Palmer, Alaska
Rec 576578

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on the 29TH day of MARCH 1974, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared MEL TIPTON, to me known to be the President of Kachamak Bay Development Corporation, and known to me to be the person who executed the within instrument on behalf of the corporation herein named, and acknowledged to me that the same was signed as a free act and deed of the said corporation for the uses and purposes therein stated and pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and notarial seal the day and year last above written.

COLE, MARTIN,
SHOODE & NORMAN
ATTORNEYS AT LAW

117 S. STREET
ANCHORAGE, ALASKA
99501
TELEPHONE
(907) 264-6200



Anne L. Brown
Notary Public in and for Alaska
My commission expires: 2-5-78

2nd Amendment to Declaration
of Protective Covenants for
BIRCH HARBOR ESTATES #1 & #2

WHEREAS, a Declaration of Protective Covenants for Birch Harbor Estates was recorded May 20, 1974 in Book 83 at Page 80 in the Palmer Recording District, and an Amendment thereto was recorded on the same day in Book 83 at Page 87, and

WHEREAS, certain lots were designated as commercial lots to be zoned B-3 according to the zoning ordinances of the Matanuska-Susitna Borough, and

WHEREAS, KACHEMAK BAY DEVELOPMENT CORPORATION wishes to further clarify the permitted uses of any commercial lots still owned by said Corporation,

NOW THEREFORE, know all men by these Presents, THAT, Kachemak Bay Development Corporation hereby amends the Declaration of Protective Covenants for Birch Harbor Estates as follows:

1. Any Lots designated for Commercial Use which are still owned by Kachemak Bay Development Corporation may be used for Residential Purposes, if the present owner, or subsequent owners, so desire.

IN WITNESS WHEREOF, this 2nd Amendment to the Declaration of Protective Covenants of Birch Harbor Estates, Units 1 & 2, is made and executed this 7th day of April, 1983.

after recording return to:
Kachemak Bay Development Corp.
619 Warehouse Ave.
Anchorage, Ak. 99501

KACHEMAK BAY DEVELOPMENT CORPORATION

By: Mel Tipton
MEL TIPTON, President

STATE OF ALASKA)
) ss.
Third Judicial District)

THIS IS TO CERTIFY that on this 7th day of April, 1983, before me, a Notary Public in and for the State of Alaska, personally appeared MEL TIPTON, to me known to be the President of KACHEMAK BAY DEVELOPMENT CORPORATION, an Alaskan corporation, and he acknowledged to me that he executed the foregoing document on behalf of said corporation as its free and voluntary act and deed for the uses and purposes therein mentioned by authority of its board of directors.

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

83-006297
800

[Signature]
Notary Public in and for Alaska
My Commission Expires: 6-24-84

RECORDED FILED
PALMER REC.
DISTRICT

APR 8 11 28 AM '83

STATE OF ALASKA
NOTARY PUBLIC
PATRICK A. LAMB
My Commission Expires June 24, 1984

REQU... KBCO
ADDRESS 619 Warehouse Ave.
Anch, AK 99501 175171

AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS OF BIRCH HARBOR ESTATES

NOTICE IS HEREBY GIVEN that paragraph 1 of the MISCELLANEOUS RESTRICTIONS of the Declaration of Protective Covenants of Birch Harbor Estates, according to Plat Nos. 73-58 and 73-59, recorded May 20, 1974, in the Palmer Recording District, Third Judicial District, State of Alaska, in Book 83, pages 80-86, is hereby amended to read as follows:

- 1. No noxious or offensive activity, including excessive noise, shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein. No lotowner or resident shall maintain more than two (2) adult dogs on any one lot, and dog teams are specifically prohibited. No trash or debris shall be permitted to remain upon any lot for any period of time in excess of that normally required for regular garbage disposal. No trade or business of any nature shall be permitted upon any lot in the subdivision.

Authorization for amendment is given under the Bylaws of BIRCH HARBOR ESTATES HOME OWNERS ASSOCIATION. The Board of Directors of BIRCH HARBOR ESTATES HOME OWNERS ASSOCIATION met on the 11th day of June 1989 and unanimously passed a resolution to amend the Covenants as above set forth.

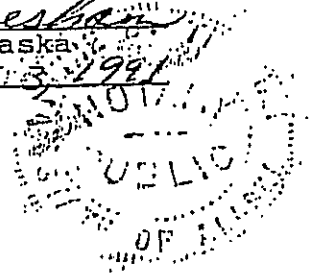
This amendment takes effect upon recording and shall have retroactive application. It is not to be construed as a waiver of any pre-existing conditions which may relate to the Covenants and Restrictions of Birch Harbor Estates.

BIRCH HARBOR ESTATES HOME OWNERS ASSOCIATION

By: John Owens, President

SUBSCRIBED AND SWORN TO before me this 30 day of June 1989, personally appeared John Owens.

Kimberly Davis Tresham NOTARY PUBLIC in and for Alaska My commission expires: Nov 3, 1991



Return to: Birch Harbor Homeowners Assn. Inc, PO Box 877174 Wasilla, Ak. 99687

By: Neil Mann
Neil Mann, Secretary

SUBSCRIBED AND SWORN TO before me this 28th day of June 1989, personally appeared Neil Mann.

STATE OF ALASKA
NOTARY PUBLIC
LYNN M. WIND

Lynn M. Wind
NOTARY PUBLIC in and for Alaska
My commission expires: 4-8-91

By: Charles Staley
Charles Staley, Treasurer

SUBSCRIBED AND SWORN TO before me this 28th day of June 1989, personally appeared Charles Staley.

STATE OF ALASKA
NOTARY PUBLIC
LYNN M. WIND

Lynn M. Wind
NOTARY PUBLIC in and for Alaska
My commission expires: 4-8-91

By: Karen Dupont
Karen DuPont, Co-chairman

SUBSCRIBED AND SWORN TO before me this 28th day of June 1989, personally appeared Karen DuPont.

STATE OF ALASKA
NOTARY PUBLIC
LYNN M. WIND

Lynn M. Wind
NOTARY PUBLIC in and for Alaska
My commission expires: 4-8-91

By: Scott Brooks
Scott Brooks, Co-chairman

SUBSCRIBED AND SWORN TO before me this 28th day of June 1989, personally appeared Scott Brooks.

STATE OF ALASKA
NOTARY PUBLIC
LYNN M. WIND

Lynn M. Wind
NOTARY PUBLIC in and for Alaska
My commission expires: 4-8-91

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RECORDED-FILED
PALMER REC.
DISTRICT

JUL 6 12 02 PM '89

REQUESTED BY Basil Staylor
ADDRESS Democracy Assn Inc

AMENDED DECLARATION OF PROTECTIVE COVENANTS
FOR
BIRCH HARBOR ESTATES

THIS DECLARATION is made this 28th day of September 1990, by BIRCH HARBOR UNITS I & II HOMEOWNERS ASSOCIATION, INC., an Alaska Corporation, composed of the residents of Birch Harbor Estates Units I and II, hereinafter referred to as Declarant. This Amended Declaration of Protective Covenants is made pursuant to General Conditions, paragraph 6, of the Declaration of Protective Covenants for Birch Harbor Estates, recorded in Book 83 at page 80, Palmer Recording District, for the purpose of amendment and consolidation of previous amendments. Declarant represents the owners of all that real property described as follows:

BIRCH HARBOR ESTATES, UNITS I and II, according to Plat Nos. 73-58 and 73-59, respectively, as recorded in the Palmer Recording District, Third Judicial District, State of Alaska;

EXCEPTING THEREFROM that portion which has been dedicated to the public for streets and parks.

Declarant hereby makes and declares the following limitations, restrictions and uses upon any of such real property as restrictive and protective covenants running with the land, and as binding upon Declarant and upon all persons claiming under Declarant and upon all future owners of any part of such real

property, so long as these restrictive and protective covenants shall remain in effect:

GENERAL CONDITIONS

1. There are 256 lots in BIRCH HARBOR ESTATES, UNITS I and II. All lots in the subdivision are subject to these covenants.
2. All restrictive covenants listed and/or contained herein are subject in all instances to compliance with State of Alaska and Matanuska-Susitna Borough health ordinances, restrictions and regulations, zoning regulations or other established pertinent restrictions.
3. These restrictive covenants, easements, reservations and requirements upon the lands within said subdivision and any amendments thereto shall run with the land and remain in full force and effect for a period of forty (40) years from and after the date hereof; provided, however, that these covenants shall automatically be extended for ten-year periods unless two-thirds (2/3) of the lot owners vote against such an extension.
4. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce any covenant or restriction herein contained

shall in no event be deemed a waiver of the right to do so thereafter. Enforcement may be to restrain covenant violations or to recover damages, or both.

5. These covenants and restrictions are severable and the invalidation of one shall not invalidate any other covenant hereof and each covenant shall be independent to such extent.

6. The Declarant, its successors, assignees or duly authorized agent or agents, by recorded instrument, reserves the right to subsequently amend, alter, or change these covenants and restrictions (and use restrictions) subsequently filed from time to time, by filing an amendment thereto upon the public records of the Matanuska-Susitna Borough, State of Alaska; provided, however, that no amendment shall be made which changes the use classification of any lot which has been sold without the prior written consent of the Buyer of said lot. Amendments to this Declaration may be made at any time by written instrument recorded in the Palmer Recording District by an affirmative vote of two-thirds (2/3) of the lot owners, with such exceptions, amendments, and additions to these covenants, conditions and restrictions as they deem appropriate.

RESTRICTION A

UNIFORM GENERAL REQUIREMENTS

1. Easements and rights-of-way are hereby expressly reserved for the creation, construction and maintenance of

utilities, such as water, telephone, electricity, sewers, storm drains, public, quasi-public and private, as well as for any public, private or quasi-public utility or function deemed necessary and/or expedient for the public health and welfare. Such easements and rights-of-way shall be confined to the rear ten (10) feet of every lot and five (5) feet along each sideline of every lot, and the front five (5) feet of every lot. Along curved property lines, overhead utility lines are permitted beyond the front five (5) foot and rear ten (10) foot easement, not to exceed ten (10) feet beyond said easement, to the extent necessary to service all lots in a particular block. Overhead service wires are permitted across corners of rear yards where side lot lines do not join in the rear.

2. No mobile homes shall be placed on any lot. A "mobile home" means a detached single-family dwelling designed for long-term human habitation and having complete living facilities, constructed and fabricated into a complete unit at a factory and capable of being transported to a location of use by chassis and wheels, whether it be its own chassis and wheels or that provided by the transporter and includes prefabricated homes, whether or not said structure contains a manufacturer's seal.

3. Only single-family dwellings may be placed upon any lot in the subdivision for which neither multi-family nor commercial use is designated. "single-family dwelling" means a

detached building constructed on a permanent foundation, designed for long-term human habitation exclusively by one family, and having complete living facilities and constituting one dwelling unit.

4. The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction, and trees may be thinned, so long as the natural beauty and esthetic value of the natural foliage is retained.

5. Any single-family dwelling residence on a lot shall contain a minimum floor area of 800 square feet, exclusive of open decks (covered or uncovered), garages, sheds or other outbuildings.

6. The exterior of any buildings constructed shall be completed within one year of the beginning of construction in order to present a finished appearance when viewed from any angle. The Board of Directors, at its discretion, may extend this period of time upon written application of the lot owner. The building area shall be kept reasonably clean during the construction period.

7. No structure shall be placed upon any lot with an elevation of its foundation of less than three feet (3') above the highest known water elevation.

RESTRICTION B

USE CLASSIFICATIONS ESTABLISHED

Lots in the subdivision shall be classified by permitted uses. The permitted uses and set-backs for each permitted use classification are as follows:

A. Residential.

1. Single-family lots

- a. Lots of this classification shall be used only for single-family homes, including accessory buildings.
- b. Buildings shall be set back a minimum of twenty-five (25) feet from front or twenty (20) feet from rear lot lines, a minimum of ten (10) feet from side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

2. General Provisions. An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main building and which is located on the same lot as the main building such as private garage or garden tool storage shed.

3. Outbuildings. No basements, garages, sheds, shacks, outbuildings or impermanent structures, such as

tents or lean-tos, shall be used as dwellings on any lot except with the written permission of the Board of Directors of the Association, and then only for such relatively short periods of time as may be specified in the written permit authorizing such use.

B. Commercial. Any lot used or designated as for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. Any lot designated by commercial use may be used for residential purposes, if the present owner, or subsequent owners, so desire. The following lots are designated as commercial lots and to be zoned B-3, according to the zoning ordinances of the Matanuska-Susitna Borough, State of Alaska:

1. Lots One (1), Two (2), Eighteen (18) through Thirty (30), Block One (1); Lots Twelve (12) through Twenty-six (26), Block Five (5); and Lots One (1) through Fifteen (15), Block Six (6) in UNIT ONE of BIRCH HARBOR ESTATES, Palmer Recording District, Third Judicial District, State of Alaska; and

2. Lots Four (4) through Ten (10), Block One (1); and Lots One (1) through Twelve (12), Block Two (2) in UNIT TWO of BIRCH HARBOR ESTATES, Palmer Recording District, Third Judicial District, State of Alaska.

ASSESSMENTS

1. Each owner of any lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such a deed, shall be deemed to covenant and agree to pay to the Association:

- a. annual assessments or charges; and
- b. special assessments for capital improvements.

Such annual and special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, shall be a continuing lien upon the property against which each such lien is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due. Such personal obligation shall not pass to his successors in title unless expressly assumed by them.

2. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the owners, including the enforcement of these covenants, and for the improvement and maintenance of the common areas, public easements, and any property, service and facilities devoted to such purposes.

3. The annual assessment shall be determined at the annual meeting of the Homeowners' Association. Both annual and

special assessments must be fixed at a uniform rate for all lots, except that unimproved lots may be assessed at a rate of not less than one-half (1/2) of the rate fixed for improved lots.

4. 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 purposes as set forth in paragraph 2 hereof, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of a quorum of members who are voting, in person or by proxy, at a meeting duly called for this purpose by the Association. Blind proxies shall not be allowed to vote on any special assessment proposal. The Board of Directors of the Association may provide for the payment of such special assessment on a monthly basis.

5. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors, which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand and for a reasonable charge, furnish to any owner liable for an assessment a certificate signed by an officer setting forth whether the assessments on the property owned by each owner have been paid.

6. Any assessment not paid within thirty (30) days after the due date as established by the Board of Directors shall bear interest from the due date at the rate of 10.5% 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. No owner may waive or otherwise avoid liability for the assessment provided for herein by nonuse of the common area or abandonment of his lot.

7. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any lot shall not affect the assessment liens; provided, however, the sale or transfer of any lot pursuant to a foreclosure, or other proceeding in lieu thereof, of any first mortgage or deed of trust, shall extinguish the liens of such assessments as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

8. Mortgagees are not required to collect assessments. Failure to pay assessments does not constitute a default under an insured mortgage.

MISCELLANEOUS RESTRICTIONS

1. No noxious or offensive activity, including excessive noise, shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein. No lot owner or resident shall maintain more than two (2) adult dogs on any one lot, and dog teams are specifically prohibited. No farm animals will be allowed without

written authorization from the Board of Directors. No trash or debris shall be permitted to remain upon any lot for any period of time in excess of that normally required for regular garbage disposal. No trade or business of any nature shall be permitted upon any residential lot in the subdivision.

2. No inoperable vehicle or heavy equipment shall be parked or maintained upon any lot or within any street or alley or easement, adjacent to any lot in the subdivision. A vehicle temporarily parked for repair by the owner or under the owner's directions for a period of not to exceed thirty (30) days (subject to the availability of parts) shall not be considered a violation of this provision.

3. Every purchaser, his heirs, successors and assigns in the ownership of lots in this subdivision, agree, as a condition of purchase and sale, that they will, by the application of these recorded restrictions, become a member of the property owners Association called Birch Harbor Units I & II Homeowners Association, Inc. Each owner of a lot in the subdivision shall automatically be and become a member of such Association and be bound by its governing regulations. The owner of each lot shall have an equal voice and vote with the owner of each other lot in the subdivision as to the election of members to serve as officers and directors of such Association. Membership in such Association

shall be limited to owners of lots, whether one or more in the subdivision.

4. The purchasers and lot owners and members of said Association shall be bound to take over and provide for the cleanliness and development of the Recreational Parks dedicated to the public in this subdivision.

5. No individual water supply system shall be permitted on any lot unless such a system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Alaska Department of Environmental Conservation. Approval of such a system as installed shall be the responsibility of the individual owner.

6. No individual sanitary waste disposal system shall be permitted on any lot unless such a system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Alaska Department of Environmental Conservation Title 18, Chapter 72, or such other regulations which may be promulgated by the State or local authority. Approval of such a system as installed shall be the responsibility of the individual owner.

7. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot for commercial purposes.

8. No trash, garbage, rubbish, refuse or other solid waste of any kind, including but not limited to inoperable

automobiles, appliances and furniture, shall be thrown, dumped, stored, disposed of or otherwise placed in any part of Birch Harbor Estates Units I and II. Garbage and similar solid waste shall be kept in secure, sanitary containers well suited for that purpose. The owner or occupant of each lot shall be responsible for the disposal outside of Birch Harbor Estates Units I and II of all such trash, garbage, rubbish, refuse or other solid waste.

9. No owner shall change or cause to be changed or interfere in whole or in part with the natural drainage of the subject property without the approval of the appropriate governmental agency.

10. No lot shall ever be used in a fashion which unreasonably interferes with the other lot owners' right to the use and enjoyment of their respective properties, or the other lot owners' right to the use and enjoyment of the common area. The Board of Directors of the Association shall determine whether any given use of a lot unreasonably interferes with those rights, and such determination shall be conclusive.

11. Each lot owner shall, at the time of driveway construction, provide a culvert at the ditch crossing, where necessary. The culvert must be a 12-inch (minimum) corrugated metal 10-gauge or equivalent pipe.

12. Every owner shall have a nonexclusive right and easement of enjoyment in and to the common area, which shall be

appurtenant to and shall pass with the title to every lot, subject to the following provisions:

a. the right of the Association to charge reasonable admission and other fees for the use of any area, and to promulgate and enforce reasonable rules and regulations for the use of such facilities;

b. the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which an assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

c. the right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members agreeing to such dedication or transfer has been recorded.

13. The common area cannot be mortgaged or conveyed without the consent of at least two-thirds (2/3) of the lot owners.

14. Absolute liability is not imposed on lot owners for damage to common areas or lots in the subdivision.

15. Any owner may assign, in accordance with the bylaws of the Association, his right of enjoyment to the common area, plus facilities thereon or therein, to the members of his family, his tenants, or contract purchasers who reside on the property.

This Amended Declaration of Protective Covenants for Birch Harbor Estates takes effect upon recording.

BOARD OF DIRECTORS
BIRCH HARBOR UNITS I AND II
HOMEOWNERS ASSOCIATION, INC.

By: Carl Peterson

Its Chairman

~~October~~ September 1990. SUBSCRIBED AND SWORN TO before me this 2nd day of

Al B. Juice
NOTARY PUBLIC in and for Alaska
My commission expires: 3-13-93

By: Neil M. Conn

Its Secretary

September 1990. SUBSCRIBED AND SWORN TO before me this 28th day of

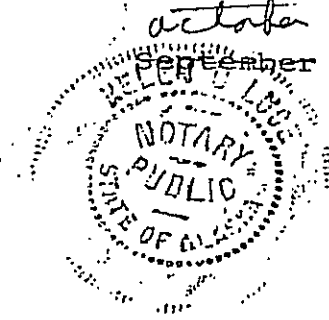
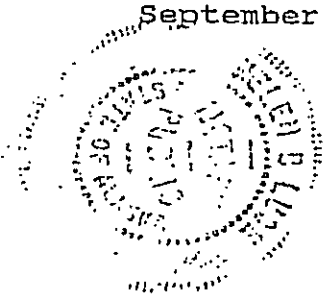
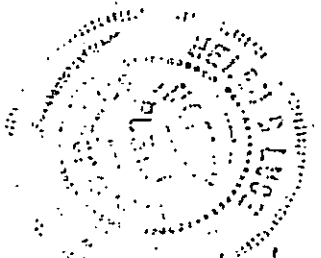
Al B. Juice
NOTARY PUBLIC in and for Alaska
My commission expires: 3-13-93

By: Charles L. Staley

Its Treasurer

~~October~~ September 1990. SUBSCRIBED AND SWORN TO before me this 2nd day of

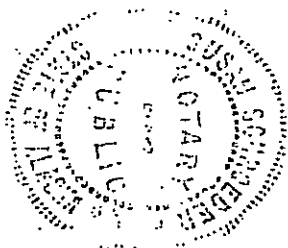
Al B. Juice



NOTARY PUBLIC in and for Alaska
My commission expires: 3-13-93

By: [Signature]
Its Co-chairman

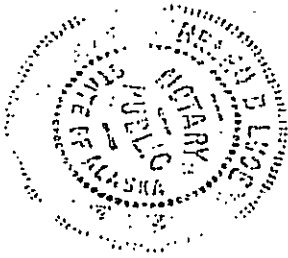
SUBSCRIBED AND SWORN TO before me this 28th day of
September 1990.



[Signature]
NOTARY PUBLIC in and for Alaska
My commission expires: 7-15-92

By: [Signature]
Its Co-chairman

SUBSCRIBED AND SWORN TO before me this 1st day of
~~September~~ 1990.
October



[Signature]
NOTARY PUBLIC in and for Alaska
My commission expires: 3-13-93

90-013041
PALMER REC 55⁰⁰
DISTRICT
REQUESTED BY _____
HARTIG, RHODES ETAL
'90 OCT 10 PM 1 24

RETURN TO:
HARTIG, RHODES ETAL
808 S. BAILEY ST. - STE 101
PALMER, AK