

DECLARATION OF PROTECTIVE COVENANTS

FOR

BIRCH HARBOR ESTATES
UNIT III

TIPTON DEVELOPMENT COMPANY, 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 plat of which, for Unit III, was filed under Plat Number 74-13.

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 thereof.
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 therear.

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 aesthetic 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 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. Multiple or Commercial: Any lot used or designated as for commercial or multiple 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. Noxious activity. 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. Inoperable vehicle. 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 of not to exceed thirty (30) days (subject to the availability of parts) shall not be considered a violation of this provision.

3. Maintenance agreement. The "GRANTOR" hereby agrees to provide for maintenance in the subdivision which shall include pest control, road maintenance, snow removal, and the installation of limited street lighting. Pest (mosquito) control shall be done by the developer each spring, in compliance with existing regulations relating to uses of pesticides, as shall the grading, compacting, and oiling of roads, for a primary term of ten (10) years from the date hereof. This maintenance agreement shall be provided by the GRANTOR at no cost to the buyer for a primary term of ten (10) years from the date hereof.

4. Noise control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles, motorbikes, and/or snowmobiles on any paths, trails, or roads within the subdivision shall not be permitted.

5. Recreation trails. The perimeter of the subdivision is dedicated to the building and use of cross-country ski trails and hiking trails, and shall not be used for any other than recreational purposes. The operation of snowmobiles, motorcycles, and/or motorbikes on these trails shall be permitted, except to and from permitted areas. Speed limit within the subdivision is 10 M.P.H. when in use.

6. Signs. No billboard of any character shall be erected, posted, painted or displayed upon or about any of the property. No sign of any kind, except signs used by the GRANTOR or by a builder to advertise the property during the construction and sales period, shall be displayed to the public view on any lot, part or portion of the property without the prior approval of the GRANTOR. GRANTOR shall have the right to remove or cause the removal of any signs erected and displayed without said prior approval.

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MISCELLANEOUS RESTRICTIONS
(continued)

SEP 23 1978

ADDRESSES:

7897
Mel W. Tipton
619 Warehouse Ave
Anchorage, AK
Suite 2099501

7. Fence restrictions. Fences or walls shall be of wood, brick, stone or other materials approved by the GRANTOR (or Architectural Control Committee). No fences or walls of chain link, wire mesh, or unpainted concrete block shall be allowed. Fences or walls or hedges shall not exceed six feet in height and shall not extend beyond the front yard set-back at any point. Fences, walls, or hedges on any corner lot at road intersections must be built in such a way that they will not constitute a traffic hazard.

8. Architectural control. No building shall be erected, placed or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and dwellings will be required to meet standard FHA building codes. No fence or wall shall be erected placed or altered on any such lot, part or portion nearer to any street than the minimum building set-back line unless similarly approved.

9. BIRCH HARBOR ESTATES Homeowners Association. 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 percent (60%) of the lots in this 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 HOMEOWNERS 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 of 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 5 day of Sept, 1974.

By: Mel W. Tipton

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)
Third Judicial District) ss.

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
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Patrick A. Lamb
Notary Public in and for Alaska
My Commission Expires: 6-24-84

RECORDED FILED
PALMER REC.
DISTRICT

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

APR 8 11 28 AM '83

REQUESTED BY KBDCO
ADDRESS 619 Warehouse Ave.
Anch, AK 99501 175171