

*FIRST AMENDMENT TO DECLARATION
of
COVENANTS, CONDITIONS AND RESTRICTIONS
(pertaining to
GOOSE BAY HEIGHTS SUBDIVISION, PHASE 1)*

FIRST AMENDMENT made this 10 day of July, 1986, by Goose Bay Development Corporation, an Alaska corporation, herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant was on June 3, 1985, the owner of certain property located in the Palmer Recording District, Third Judicial District, State of Alaska, and more particularly described as:

GOOSE BAY HEIGHTS SUBDIVISION, according to Plat No. 85-142 on file in the office of the recorder for the Palmer Recording District, Third Judicial District, State of Alaska (situate in Government Lots 3 and 4 and the East One-half of the Southwest One-quarter [E 1/2 SW 1/4], Township 16 North, Range 3 West, Seward Meridian, State of Alaska),

herein called "Goose Bay Heights Subdivision" or "Subject Property", and

WHEREAS, Declarant, by document executed June 3, 1985, and recorded Oct-24, 1985 in Book 0441 at Page 047 to 056, of the Palmer Recording District, Third Judicial District, State of Alaska, did subject the GOOSE BAY HEIGHTS SUBDIVISION, PHASE 1, containing 101 lots and 0 tract, more or less, to certain covenants, conditions and restrictions for the benefit of such property and its then existing and subsequent owners as described therein; and

WHEREAS, ARTICLE VI, Section 3., captioned "Severability" provides that:

"...The Declaration may be amended during the first twenty (20) year period as follows:

(a) at any time until and through December 31, 1995, the Declarant by a written instrument recorded in the Palmer Recording District may:

(i) subject to the approval of the appropriate platting authority, if any, if any, change or lay out a new or discontinue any existing road, street, thoroughfare or way depicted on the Plat, which is not necessary ingress or egress to or from a Lot Owner's premises; or

(ii) make such further exceptions, amendments, and additions to these covenants, conditions and restrictions as it and the Board of Directors of the Association may reasonably deem necessary and proper, or both; and

(b) at any time by a written instrument recorded in the Palmer Recording District, sixty-six and two-thirds percent (66-2/3rds%) of the Lot Owners, by an affirmative vote of two-thirds (2/3rds) of each class of members, may make such further exceptions, amendments and additions to these covenants, conditions and restrictions as they deem appropriate.;

and,

WHEREAS, Declarant is the present owner of Lot 1-8, Block 1, Lots 1-6, Block 2, Lots 1, Block 3, Lots 1,2,13-19,21-25 Block 4, Lots 10-18, Block 5, Lots 1-13, Block 6, Lots 1-8, Block 7 and Tracts A, Goose Bay Heights Subdivision according to Plat No. 85-142, and Co-Declarants are the respective present owners of Lots 3, 4 & 20, Block 4, Lot 6, Block 6 and Lots 1 and 2, Block 7, Goose Bay Heights Subdivision according to Plat No. 85-142; and

WHEREAS, Declarant and Co-Declarants now wish to revoke the referenced Declaration as to Goose Bay Heights Subdivision.

NOW, THEREFORE, Declarant and Co-Declarants hereby declare:

That certain Protective Covenants, Conditions and Restrictions pertaining to Goose Bay Heights Subdivision, dated June 3, 1985, recorded Oct. 24 1985, in Book 0441 at Page 047 to 056, is hereby revoked in its entirety and completely supplanted or superseded by the following Amended Declaration of Covenants, Conditions and Restrictions pertaining to Goose Bay Heights Subdivision:

**AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
PERTAINING TO GOOSE BAY HEIGHTS SUBDIVISION**

This Amended Declaration is made this 10 day of July, 1986, by GOOSE BAY DEVELOPMENT CORPORATION, an Alaska corporation, and herein referred to as "Declarant", and by John H. Delano and Mary M. Delano, B. J. A.M.G.S. Company, Timothy Allen O'Docherty, Joseph T. Fernandez and Robert B. Charles and Arden L. Charles, herein jointly referred to as Co-Declarants.

WITNESSETH:

WHEREAS, Declarant and Co-Declarants are the owners of certain property in the Palmer Recording District, Third Judicial District, State of Alaska, and more particularly described as:

GOOSE BAY HEIGHTS SUBDIVISION, according to Plat No. 85-142 on file in the office of the recorder for the Palmer Recording District, Third Judicial District, State of Alaska (situate in Government Lots 3 and 4 and the East One-half of the Southwest One-quarter [E 1/2 SW 1/4], Township 16 North, Range 3 West, Seward Meridian, State of Alaska).

WHEREAS, the above described property contains 101 Lots and 1 Tract and

WHEREAS, Declarant desires to subject all such 101 Lots and 1 Tract, herein called "Goose Bay Heights Subdivision" or "Subject Property", to certain covenants, conditions and restrictions for the benefit of said property, and its present and subsequent owners as hereinafter specified.

WHEREAS, the power to enforce such covenants, conditions and restrictions and charges is to primarily reside in "Goose Bay Heights Owners Association", a non-profit corporation organized or to be organized under the laws of the State of Alaska.

NOW THEREFORE, Declarant and Co-Declarants hereby declare that all of the Subject Property described above shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on and inure to the benefit of all parties having any right, title or interest in the Subject Property or any part thereof, including their legal representatives, heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" means the Goose Bay Heights Owners Association, an Alaska non-profit corporation, and its successors and assigns.

Section 2. "Declarant" means Goose Bay Development Corporation, and its successors and assigns (in whole or in part) if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 3. "Real Property" means the entire land area shown and described by the plat.

Section 4. "Plat" means Plat No. 85-142 on file in the office of the recorder for the Palmer Recording District, and any subsequent official plat(s) pertaining to Goose Bay Heights Subdivision.

Section 5. The word "Lot" includes the word "Lots" and the word "Tract" includes the word "Tracts". Additionally, the word Lot(s) encompasses and means the 101 Lots and 1 Tract depicted on the official plat, and further identified therein by Arabic Block and Lot numerals.

Section 6. Words used in the present tense include the future tense.

Section 7. The singular number includes the plural.

Section 8. The word persons includes a corporation, partnership, joint venture, association, tenants in common, tenants by the entirety, and trust.

Section 9. The term "shall" is always mandatory.

Section 10. "Common Area" means all real property to be transferred to and held or maintained by the Association for the common use, enjoyment and benefit of the Owners. Such Common Area will consist of all Roads depicted on the Plat, whether such Roads have been or will be dedicated to or conveyed to the Matanuska-Susitna Borough, or other governmental unit for the use of the general public.

Section 11. "Owner" means the record Owner, whether one or more persons or entities, of a fee simple title to a Lot in Goose Bay Heights Subdivision, or the contract purchaser, in possession of a Lot in Goose Bay Heights Subdivision.

Section 12. "Goose Bay Heights" means the real property shown on the Plat.

Section 13. "Roads" shall mean and refer to all streets, thoroughfares, pathways and rights-of-way depicted on the Plat.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulation and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Lot.

Section 2. Association Voting Rights. The Association shall have two classes of voting membership.

Class A: Class A members, each of whom shall be entitled to one vote for each Lot owned, shall be the Owners, subject to these limitations:

(1) when more than one person holds interest, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot; and

(2) the Declarant shall not be a Class A member until the Class B membership of the Declarant ceases and becomes converted to Class A membership as herein provided.

Class B. Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted into Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership, or

(b) on December 31, 1986.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which it holds the interest(s) required for membership of Class A members.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within Goose Bay Heights Subdivision hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such a deed, shall be deemed to covenant and agree to pay to the Association:

- (i) annual assessments or charges, and
- (ii) 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.

Section 2. Purpose of Assessments. 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, and for the improvement and maintenance of the Roads.

Section 3. Maximum Annual Assessment for Association. Until January 1, 1987, the maximum annual assessment which may be levied by the Board of Directors of the Association shall be FORTY-EIGHT AND NO/ONE HUNDREDTHS DOLLARS (\$48.00) per Lot.

(a) From and after January 1, 1986, the maximum annual assessment which may be levied by the Board of Directors of the Association without a vote of the membership shall be adjusted in relation to the Consumer Price Index for Anchorage, Alaska, issued by Bureau of Labor Statistics of the United States Department of Labor, herein referred to as "price index figure"; provided, however, that in no way shall the maximum annual assessment be reduced to an amount less than \$48.00 per annum. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October, 1984, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made, and the sum of \$48.00 shall be the basis upon which such adjustment shall be computed. The differences, if any, between the price index figure for October, 1984, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of the figures.

Thereafter, such difference shall be divided by the price index figure for October, 1984, which shall provide the percentage of change, if any, in the price index figures. If such percentage of change represents an increase, then the maximum annual assessment for the following year shall be \$48.00 plus the sum derived by multiplying the sum of \$48.00 by such percentage of change. In the event the Consumer Price Index issued by the United States Department of Labor is discontinued, or if there is a substantial change in the method of determining the price index figure from the base month of October, 1984, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October, 1984, and the subsequent month being measured.

(b) From and after January, 1984, the maximum annual assessment may be increased above the amount otherwise allowable under (a) above, to a stated maximum amount, by an affirmative vote of two-thirds (2/3rds) of each class of members of the Association who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement located or to be located within its jurisdiction or control, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting, in person or by proxy at a meeting duly called for this purpose by the Association. The Board of Directors of the Association may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3(b) and 4. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3(b) or 4, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots except that unimproved Lots owned by the Declarant may be assessed at a rate of not less than one-half (1/2) of the rate fixed on improved Lots.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein for the Association shall commence as to all Lots on January 1, 1987. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment allowance under Section 3. 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.

Section 8. Effect of Nonpayment of Assessment; Remedies of the Association. 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 ten percent (10%) 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 escape liability for the assessment provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. 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.

ARTICLE IV

RESTRICTIONS ON USE OF SUBJECT PROPERTY BY OCCUPANTS - LAND USE RESTRICTIONS

Section 1. Building Line Setbacks. No structure shall be placed within 25 feet from any public right-of-way; nor within 10 feet from any side lot line; nor within 75 feet from any platted meander line.

Section 2. Water Supply. 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.

Section 3. Sanitary Waste Disposal. 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.

Section 4. Pet Regulations. No person may permit an animal on any Lot to annoy another person by interfering with the latter's sleep, work or reasonable right to keep peace or privacy by making repeated or continued noise. No person shall keep more than three (3) dogs over the age of four (4) months on any lot.

Section 5. Waste Material. No trash, garbage, rubbish, refuse or other solid waste of any kind, including, but not limited to inoperable automobiles, appliance(s) and furniture, shall be thrown, dumped, stored, disposed of or otherwise placed in any part of Goose Bay Heights Subdivision. 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 Goose Bay Heights Subdivision of all such trash, garbage, rubbish, refuse or other solid waste.

Section 6. Drainage. 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.

Section 7. Vehicles and Storage. No vehicle requiring significant rehabilitation or repair (herein sometimes referred to as a vehicle in an extreme state of disrepair) shall be parked or permitted to remain on public right-of-way for more than 48 hours. A vehicle shall be deemed in an extreme state of disrepair when it is incapable of moving under its own power, or when in the opinion of the Board of Directors of the Association, its presence offends the reasonable sensibilities of the occupants of Goose Bay Heights Subdivision.

Section 8. Use. 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 use and enjoyment of the Roads. 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.

Section 9. Easements. Easements for installation and maintenance of utilities are as set out or depicted on the recorded plat.

Section 10. Culverts. Each Lot Owner shall, at the time of driveway construction, provide a culvert at the ditch crossing. The culvert must be a eighteen inch (18") minimum corrugated metal 10 gauge or equivalent pipe.

ARTICLE V

RESTRICTIONS ON USE OF SUBJECT PROPERTY BY OCCUPANTS -- BUILDING USE RESTRICTIONS

Section 1. Parking. At the time a permanent dwelling is built, adequate off-street parking for at least two (2) automobiles shall be provided on each Lot.

Section 2. Elevations. No structure shall be placed upon any Lot with an elevation of its lowest floor, including the basement, of less than three feet (3') above the highest known water elevation.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Resubdivision. The area of the Lots herein described shall not be reduced in size by resubdivision, except that:

- (i) the Owners of three contiguous Lots may replat such Lots by dividing the inner or middle Lot, thus increasing the size of the two remaining Lots, which shall then be treated for all purposes pertinent to these covenants as enlarged single Lots; and
- (ii) one or more Lots may be resubdivided provided each replatting conforms to all applicable ordinances, rules and regulations of local authorities.

Section 2. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding 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.

Section 3. Severability. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then record owners of Lots is recorded, declaring the subject covenants, conditions and restrictions are to be terminated or amended in whole or in part. The Declaration may be amended during the first twenty (20) year period as follows:

(a) at any time until and through December 31, 1995, the Declarant by a written instrument recorded in the Palmer Recording District may:

(i) subject to the approval of the appropriate platting authority, if any, change or lay out a new or discontinue any existing road, street, thoroughfare or way depicted on the Plat, which is not necessary ingress or egress to or from a Lot Owner's premises; or

(ii) make such further exceptions, amendments, and additions to these covenants, conditions and restrictions as it and the Board of Directors of the Association may reasonably deem necessary and proper, or both; and

(b) at any time by a written instrument recorded in the Palmer Recording District, sixty-six and two-thirds percent (66-2/3rds%) of the Lot Owners, by an affirmative vote of two-thirds (2/3rds) of each class of members, may make such further exceptions, amendments and additions to these covenants, conditions and restrictions as they deem appropriate.

IN WITNESS WHEREOF, Goose Bay Development Corporation has caused this declaration to be signed by its duly authorized officers the day and year first above set forth.

Goose Bay Development Corporation

By: [Signature]
Its: President



STATE OF ALASKA)
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 6 day of August, 1986, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Thomas E. Alexander, to me known and known to me to be the President, respectively, of Goose Bay Development Corporation, The corporation named in the foregoing instrument, and he acknowledged to me that he had in their official capacities aforesaid executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and Notarial Seal on the day and year in this certificate first above written.

86-017332
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RECORDED-FILED
PALMER REC.
DISTRICT

[Signature]
Notary Public in and for the State of
Alaska
My Commission Expires 5/24/89

AUG 7 12 41 PM '86
REQUESTED BY CINDY ALEXANDER
ADDRESS POB 876069
WASILLA 99687