

GENERAL

Hart Lake Est.

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2005-023064-0

Recording Dist. 311 - Palmer  
8/24/2005 3 10 PM Pages: 1 of 13



cc

DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
HART LAKE ESTATES

On this 24<sup>th</sup> day of August, 2005, the undersigned, John Shadrach as the managing Member of Western Spruce, L.L.C. of P.O. Box 871497, Wasilla, Alaska 99687, such L.L.C. being the one hundred percent (100%) owner of Hart Lake Estates according to Plat Number 2005-110 as recorded in the Palmer Recording District, Third Judicial District, State of Alaska, make the following "Declarations" as to the restrictions, limitations, and uses for which the lots in the subdivision may be put and specify that said Declaration shall constitute covenants to run with the land as provided by law and shall be binding on all parties and all persons claiming an interest in such land, and that this Declaration is for the benefit of and a limitation upon all future owners in said subdivision. The purpose of this Declaration is to impose on the land mutually beneficial restrictions under a general plan or scheme of improvement to assure that present and future property owners will be fully protected from poor quality surroundings and that they will be assured of pleasant sites to erect their residential dwellings and other improvements authorized herein.

ARTICLE I - AREA OF APPLICATION

SECTION A - GENERAL LEGAL DESCRIPTION/EFFECTIVE DATE. Unless otherwise specifically provided, the covenants, conditions, and restrictions set forth herein apply to the real property described as follows:

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~~\*Covenants and restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin are hereby rejected and only to the extent that such covenants and restrictions are prohibited under Chapter 02, Section 25.07 of the Alaska State Code; (b) related to handicap, and agree not to discriminate against handicapped persons.~~

Lots Ten (10) through Twenty-two (22) of Block One (1), Lots one (1) through Twenty-one (21), Block 2, and Lots One (1) through Sixteen (16), Block 3, HART LAKE ESTATES PHASE I, according to Plat No. 2005-110, Palmer Recording District, Third Judicial District, State of Alaska;

(the "Property").

Tract A, as it appears on the recorded plat referred to above, will also be subject to these covenants and restrictions, such application of these covenants and restrictions to take effect upon the event of the recordation of an approved re-plat of Tract A, to be referred to in the re-plat as HART LAKE ESTATES PHASE II, and such replat dividing Tract A into subdivided lots.

SECTION B - EFFECTIVE DATE. The covenants, conditions, and restrictions set forth herein shall take effect upon the recording of this document.

#### **ARTICLE II - RESIDENTIAL USE AND BUILDING TYPE**

SECTION A - LAND USE AND BUILDING TYPE. Buildings shall be designed and may be used only for detached single family residential use, one residence per lot. No multiple family structures, such as duplexes and fourplexes may be constructed. An automobile vehicle garage for each residential unit is required to be included in all residential building plans to be constructed. The garage required by this paragraph may be either detached or attached to the primary residential structure. The size of the garage must be sufficient to accommodate two full sized passenger automobiles or larger. No commercial activity, including retail, wholesale, manufacturing, or repair businesses of any kind shall be permitted on, around or in any residential structure constructed. However, home based businesses that do not add to or increase the vehicular traffic to or from the particular lot at issue are not a violation of the use restriction stated herein. Such home based businesses would be limited to activities or services that do not call for any client visits to the home.

However, a lot or lots may be used for a dedicated purpose of serving as a public (if dedicated and accepted for public ownership) or private (if dedicated and

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accepted by a non-profit homeowner's association or similar organization) park or common use facility to be publicly or privately owned for the general use of the public, or all the residents of Hart Lake Estates. In the event that a lot is so dedicated for common or public use, then the restrictions on construction appropriate for a residential use, as described herein, shall not apply.

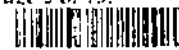
**SECTION B - DWELLING QUALITY.** Dwellings and garage buildings upon any lot shall be constructed to the standards of the most current edition of the Uniform Building Code or to the standards of the comparable State building codes. If local building codes are enacted, buildings shall meet the minimum requirements established. Materials and workmanship shall be of good quality. Buildings shall be of permanent fixed construction. Non-permanent materials such as tarpaper, roofing paper, Celotex, or nuwood shall not be used as exterior construction materials or siding. If "T-111" is employed, it shall be used in such a manner that it shall not be visible from any traveled roadway.

**SECTION C - DWELLING SIZE/HEIGHT.** Construction on all lots in the Hart Lake Estates will require that each family residential unit main structure shall be at least 1,500 square feet of useable residential floor area for ranch style homes, and at least 1,650 square feet for two-story homes, specifically excluding the automobile garage floor surface area. Basements are not to be counted as a level when considering a home as two-story.

**SECTION D - BUILDING LOCATION.** All setback requirements of the Matanuska-Susitna Borough will be followed. In no event will a building be located on any lot or property nearer than 25 feet from a public right of way or public use easement or nearer than 10 feet to any other lot line.

**SECTION E - LOT USAGE- SOILS, LANDSCAPING AND NATURAL CONTOURS.** All lots shall be used for occasional or permanent residential purposes only and shall not interfere in any manner with the residential use of other lots in the subdivision. Gravel, soils, or other natural materials may not be removed from any lot or property within the subdivision or used, except for permitted development on the same lot. Natural vegetation and contours of any lot or property are encouraged and are not be disturbed except as reasonably necessary for the aesthetic development of the property such as lawns, landscape shrubbery, and well maintained home gardens. A culvert shall be installed at the ditch crossing of adequate size for drainage at the time of construction of a driveway. Driveways shall be paved from the street pavement to the residence or garage. The

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driveway pavement shall be a minimum of ten feet in width, with curved approaches at the point of intersection with the street pavement. A diagram of the proposed driveway approach shall be included with the submitted materials required under Section M of this document.

The only exception to this Paragraph (II E) is that Western Spruce, LLC, as the original owners of the subdivision, are authorized, in their sole and exclusive and unlimited discretion, to remove gravels and soils from any of the lots or tracts that are subject to this Declaration so long as such removal occurs for the purpose of constructing road or utility backbone improvements.

#### SECTION F - WATER AND SEWER ON-SITE.

No individual or community on-site water or sewer system shall be installed on any lot or tract unless such system is designed, located, and constructed in accordance with the requirements of the Alaska Department of Environmental Conservation, the Matanuska-Susitna Borough (or other local municipal authority) and appropriate subdivision regulations, and will not adversely affect any other lot in the subdivision. More specifically, there is a DUTY TO LOCATE WELL AND SEPTIC FACILITIES TO AVOID RENDERING ADJACENT LOT(S) UNUSABLE. The location of water well and septic facilities may impact the development of an adjacent lot(s) by reason of separation distances imposed by this Declaration, or state law and/or regulations of the Department of Environmental Conservation. Consequently, all property owners agree, prior to initiation of construction of a water well or septic facilities on the property, to present the proposed location of such water well and/or septic facilities to the title owner(s) of any adjacent lots. The owners of such adjacent lots are entitled to ten (10) days to review and consider the proposed location. If that review results in

1) A determination that the owner of an adjacent lot will be unnecessarily limited in the development of the adjacent lot by reason of separation distances; and

2) In the further event that a reasonable alternative is likely to exist for the owner of the lot on which the water and/or septic facilities are proposed; and

3) In the further event that notice of these determinations is given, in writing within the ten (10) day time for review, by the owner of the adjacent lot to the owner of the lot on which the water/septic facilities are proposed;

Then and in such events the owner of the lot on which the water well and septic are

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proposed shall be required to adjust the proposed location of the water and or septic facilities so as to avoid unnecessarily limiting the use of the adjacent lot for single family residence purposes. In the event of failure of the owner (of the lot on which the water/septic facilities are constructed) to abide by the obligations stated in this paragraph, then and in such event the adjacent lot owner is entitled to that lot owner's actual damages and to the actual costs and fees incurred to enforce the terms of this paragraph.

**SECTION G - STANDING TIMBER.** To maintain the scenic value of the subdivision, no standing timber shall be cut on any lot or tract except that which is necessary and reasonable for clearing the portion of the lot for the main dwelling or other permitted drive, building, garden or lawn area. Trees may be thinned but not to the point of destruction of aesthetic character of the land as land populated by trees. Dead or hazardous trees may be removed. Scrub willow and alder growth may be removed, but standing birch trees are not to be generally removed except as noted in this paragraph, above. Nothing in this paragraph is intended to prohibit the removal of trees that create a hazard. For example, this paragraph is not a prohibition on removing trees that are reasonably within the necessary defensible firebreak surrounding improvements.

**SECTION H - UTILITIES.** Electrical, natural gas and telephone service utilities for a particular lot shall be installed in accordance with the requirements of the utility companies in a manner that does not unreasonably impact the scenic character of the subdivision.

**SECTION I - TEMPORARY STRUCTURES.** No structures of a temporary nature, and specifically, no trailer, mobile home, tent, shack, garage, barn, camper, recreational vehicle, or Quonset building, shall be used on any lot at any time as a residence, either on a temporary or permanent basis. Buildings shall be promptly constructed once begun and shall not be left in partially unfinished condition. Once begun the outside of the building must be complete within one year.

**SECTION J - OUTBUILDINGS.** No outbuildings, unless expressly approved in advance and in writing by the Architectural Control Committee, are permitted. In exercising discretion to authorize an outbuilding, the Architectural Control Committee will evaluate the compatibility of the proposed outbuilding with the overall purpose and intent of these covenants, focusing on the objective of avoiding outbuildings that detract from the aesthetic character of the subdivision and/or that detract from the residential character of the subdivision. By necessity,

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the discretion of the Architectural Control Committee will be broadly construed. The number of potential outbuilding proposals is too numerous to anticipate with any specifics. Therefore, the discretion granted the Committee is not to be interfered with, as the evaluation of aesthetic and residential purposes requires broad judgment. Any doubt as to the propriety of the discretion exercised by the committee is to be resolved in favor of the Committee's decision.

In general, facilities sometimes constructed as outbuildings, including, but not limited to, greenhouses, storage sheds, sauna or steam bath facilities may not be constructed unless permanently affixed to the residential structure, with a completed exterior complementary to the resident's exterior. Any such alterations to a residential improvement must be approved, in writing, by the Architectural Control Committee.

However, if an outbuilding plan and design are presented to the record owners of the other lots within the land subject to these restrictive covenants, as set forth above, Article I, Section A, and in the further event that no less than seventy percent (70%) of the record owners of the lots within the land subject to these restrictive covenants, as set forth above, Article I, Section A, agree, in writing with signatures, to allow and permit the plan and design, as presented, then and in such events an outbuilding may be constructed.

The construction of any outbuilding is to be the same as the plans and design presented to the record owners.

**SECTION K - EXTERNAL ANTENNA RESTRICTIONS.** Two television or radio antennas, of not more fifteen 15 feet from base to top of mast, may be installed on the residential structure on the lot.

**SECTION L - FENCES.** Fences shall be approved, in advance and in writing, by the Architectural Control Committee.

**SECTION M - ARCHITECTURAL REVIEW COMMITTEE.**

**1. Membership.** To assure the aesthetic design of buildings in the subdivision, an architectural review committee (also called Architectural Control Committee, or ACC) is hereby formed, to review and approve architectural and building plans. The review committee shall consist of a representative of Western Spruce, LLC until such time as there are three different property owners within the

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subdivision. Upon there existing three different property owners within the subdivision, the members of the architectural control committee shall consist of two additional persons, to be appointed by Western Spruce, L.L.C.

Thereafter, if due to absence, death, or resignation of a member of the architectural control committee, the remaining members of the architectural control committee shall have full authority to designate a successor.

**2. General Powers.** No construction shall begin nor buildings or structures built, used or placed in the subdivision unless first approved by the review committee. The plans submitted shall include a) a site plan prepared by a surveyor showing existing and proposed topography, site improvements, including septic and well facilities, and property lines; b) building or structure plans; and c) a schedule showing the type, color, and texture of all materials visible from the property line and adjoining residences. The committee shall be entitled to retain plans submitted to the committee. The committee shall approve or disapprove any plans within 30 days of submission of complete building plans to each member. The plans shall be reviewed for compliance with these covenants and with regard to a) quality of materials and workmanship, b) harmony of external design with existing structures, and c) location with respect to topography. Design, color, and materials should enhance the scenic setting of the subdivision and should not unduly or unnecessarily affect the view of other properties in the subdivision. No particular architectural style is required. The decision of the review committee is final. The review committee is empowered to waive specific requirements if, in its sole and discretionary opinion, such waiver does not compromise the general quality of the subdivision. Any disapproval of a plan shall be in writing. Any property owner may submit modified or additional plans for approval.

The discretion of the Architectural Control Committee will be broadly construed. The number of potential building proposals is too numerous to anticipate. Therefore, the discretion granted the Committee is to be given deference or the "benefit of the doubt." The evaluation of aesthetic and residential purposes requires broad judgment. Any doubt as to the propriety of the discretion exercised by the committee is to be resolved in favor of the Committee's decision.

**3. Power to Overrule Architectural Control Committee Decision.**

In the event that a decision by the ACC is disputed by a particular lot owner(s), then that decision of the Committee may be overturned and overruled by the written agreement of seventy per cent (70%) of the record owners of the lots within the land subject to these restrictive covenants, as set forth above, Article I, Section

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A.

**SECTION N - EASEMENTS.** Public use easements and public right of way easements for the installation and maintenance of utilities and road and drainage facilities, and for public access, are reserved as shown on the recorded plat. All title ownership rights, to lots within Hart Lake Estates are subject to the rights of the other real property owners and the public in general created by such easements reserved on the recorded plat.

**SECTION O - LOTS MAY NOT BE FURTHER REDUCED IN SIZE (WITH EXCEPTION FOR LOT 1, BLOCK 2).** No lot shall be reduced in size by the act of re-subdivision or re-platting of a lot into two or more smaller lots. Nothing in this prohibition is intended to restrict the ability of a lot owner, or owners, from applying to remove lot lines with the effect of increasing the overall size of a lot. However, the restriction set forth in this sub-paragraph is not applicable to Lot 1, Block 2 which is eligible to be reduced in size by a re-plat. The reasons for this exception are related to the odd configuration of this particular lot and the potential for separating out a portion of this lot if it can be joined with adjacent property. Further, however, the resulting size of Lot 1, Block 2, shall be no less than 40,000 square feet.

### **ARTICLE III - NUISANCES/RESTRICTIONS ON USE**

**SECTION A - GENERAL NUISANCES.** No noxious or offensive activity may be carried on upon any lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to adjacent owners or the neighborhood or cause unreasonable embarrassment, disturbances, or annoyance to other owners in the enjoyment of their lots.

Specifically prohibited are parking junk cars, partially dismantled vehicles, the storage of vehicles or parts of vehicles where they may be viewed from public or private property, except for a maximum of three passenger or recreational vehicles which are regularly used and maintained. Vehicles that have not moved in a 48-hour period are presumed inoperable and are to be removed. Recreational vehicles, snow machines, ATV's, boats, trailers and other vehicles not used as ordinary every day passenger vehicles shall be parked or stored either in the garage of the particular lot or, alternatively, in the back of the residential improvement so that the vehicle is not viewed from the street view of the lot.

The storage of materials, in excess of the amount needed for construction in progress of the residential structure on the premises, is prohibited, including

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materials such as scrap metal, building supplies, and wood other than for heating. Uses creating noises, smells, smoke, vibrations, or excessive light off the property, which interfere with the use or reasonable expectations of peace and quiet enjoyment of other property owners, are prohibited.

**SECTION B - ANIMALS.** No livestock, horses, or poultry may be raised, bred or kept on any lot for any purpose. Household pets, meaning pets maintained inside the household, are allowed so long as there are no more than two animals of any type (e.g., two dogs or two cats) and so long as the total number of household pets does not exceed three pets. Household pets may not be raised, bred, or kept for commercial purposes. Any activity that includes selling of animals or the offspring of animals and activity that charges for the maintenance of animals is considered within the scope of "commercial" purposes. A maximum of two adult dogs may be kept on any tract or lot. No vicious animal, as defined by local ordinance at the time of the effective date of this Declaration, may be kept on the premises. All animals must be confined to the premises at all times except when under the direct physical control of the owner. No animal may be kept unless the reasonable expectation of other occupants and owners to peace, quiet, and a sanitary environment is maintained, so that no other occupants or owners of properties within the subdivision are subjected to unsightly premises, uninvited animals on their property, or to noises or odors. Any person, who fails to keep an animal in accordance with these covenants, more than 20 days after written notice from an affected owner protected under these covenants, shall immediately remove the offending animal and may not keep that or a similar animal on the premises for a period of 12 months.

**SECTION C - GARBAGE/WASTE MATERIAL.** No lot shall be used or maintained as dumping grounds for refuse, including, but not limited to, inoperable automobiles, appliances, and furniture. Trash, garbage and other waste shall only be kept in sanitary containers and shall be regularly removed from the premises to avoid creating odors, attracting animals or creating an unsightly nuisance. Any refuse containers shall be kept out of sight except for scheduled collections. The owner or occupant of each lot shall be responsible for the disposal of all such trash, garbage, rubbish, refuse, or other solid waste. The storage of materials, in excess of the amount needed for construction in progress on buildings within the premises, is prohibited, including materials, such as scrap metal, building supplies, and wood (i.e. fallen trees, tree stumps etc.), other than for heating.

**SECTION D - SIGNS.** No sign of any kind shall be displayed to the public view

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on any lot, except that one sign of not more than four square feet may be displayed advertising the property for sale or rent or showing property ownership.

Excluded from the application of this paragraph (III-D), is the sign that notifies the public of the name of the subdivision, to be generally located near the entrance to the subdivision.

**SECTION E - PARKING AND VEHICULAR RESTRICTIONS.** No vehicle, trailer, boat, snowmobile, operable or inoperable, may be left on any street or easement adjacent to a lot for more than forty-eight (48) hours.

#### **ARTICLE IV - POTENTIAL FORMATION OF NON-PROFIT HOMEOWNER'S ASSOCIATION**

**SECTION A - RETAINED RIGHT TO FORM A NON-PROFIT CORPORATION.** The undersigned are aware that the formation of a non-profit corporation, to act as a homeowner's association and consisting of the owners of the lots within Hart Lake Estates may be desirable. The purposes of such a corporation may be to enforce these covenants and/or to manage, with assessments against lots and/or the lot owners, commonly owned property (real or personal located within Hart Lake Estates or used by the residents of Hart Lake Estates).

This right to form a homeowner's association, applicable to the subdivision, by incorporating a non-profit entity, may be exercised as follows. The filing of appropriate articles of incorporation may be done by the undersigned and/or their assigns and successors in interest at any time so long as the undersigned or their assigns and/or successors in interest, either jointly or individually, agree to so form a non-profit corporation and are the owners of thirty percent (30%) or more of the lots which have been improved by the completed construction of a residential structure on a particular lot.

**SECTION B - GENERAL FEATURES OF NON-PROFIT CORPORATION.** The type and nature of the non-profit corporation authorized to be formed, above, may include the power and ability to assess lot owners for the costs associated with the operation of the non-profit corporation and/or the costs of maintaining commonly owned property (real or personal). All powers and authority allowed by Alaska law will be permitted.

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## **ARTICLE V - GENERAL PROVISIONS**

**SECTION A - TERM.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years from the date these covenants are recorded. After this first 25 year time, these covenants shall be automatically extended for successive periods of ten years unless an instrument is recorded, agreeing to change the covenants, in whole or in part, such instrument setting forth the changes and signed by a majority of the then record owners of the lots within Hart Lake Estates. For purposes of this paragraph, each lot shall be awarded one vote when determining whether a majority has decided to change the covenants.

**SECTION B - AMENDMENT.** This Declaration may be amended, in whole or in part, during the first 25 years after it is recorded, by the recording of an instrument, setting forth the changes, signed by not less than sixty percent (60%) of the owners of the lots within Hart Lake Estates. For purposes of this paragraph, each lot shall be awarded one vote when determining whether 60% of the owners have decided to change the covenants. After the first 25 years, amendment may be accomplished by meeting the requirements set forth in Paragraph V(A), above - [recorded document signed by a majority of the then record owners].

**SECTION C - ENFORCEMENT.** Enforcement of these covenants may be by proceedings in law or in equity against any person violating or attempting to violate any covenant. Remedies may include orders to restrain or to recover damages. The owner or owners of record of any lot or tract in the subdivision may bring an action. Failure by any member to enforce any covenant, condition, or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. In the event that enforcement proceedings are necessary to file by court action, full reasonable actual attorney fees and costs will be awarded to the prevailing party.

**SECTION D - SEVERABILITY.** Invalidation of any one of these covenants by court judgment shall not affect any of the other provisions, which shall remain in effect.

**SECTION E - CONSTRUCTION.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the realty subject to this Declaration. The article and section headings have been inserted for

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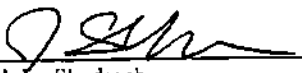
convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

**SECTION F - SINGULAR INCLUDES PLURAL.** Whenever the context of this Declaration requires the same, the singular shall include the plural and the masculine shall include the feminine.

**SECTION G - RECORD OR TITLE OWNER.** Whenever this Declaration has referred to the title owner or the record owner, including for general purposes of notification, the intention is to refer to the owner(s) and address of the owner(s) as shown on the then-existing records of the Matanuska-Susitna Borough real property tax rolls.

Dated this 24<sup>th</sup> day of August, 2005.

WESTERN SPRUCE, LLC

  
BY: John Shadrach  
ITS Managing Member

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

This is to certify that on the \_\_\_\_\_ day of August, 2005, before me, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared John Shadrach, known to me to be the Managing Member of Western Spruce, LLC, and who executed the above document and he/she acknowledged to me that he/she signed the same as his/her free and voluntary act on behalf of the LLC for the uses and purposes therein mentioned.

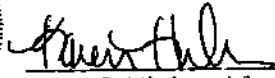
GIVEN UNDER MY HAND and official seal the day and year written above.

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Notary Public in and for Alaska  
My commission expires 12/25/05

RETURN TO:

Western Spruce, LLC  
Attn.: John Shadrach, Member  
P.O. Box 871497  
Wasilla, AK 99687

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"Covenants and restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin are hereby rejected, and only to the extent that such covenants (a) are exempt under Chapter 42, Section 1607 of the United States Code, or (b) relate to handicap but does not discriminate against handicapped persons."