



DECLARATION OF RESTRICTIONS AND RESERVATIONS
OF BIRNAM WOODS ASSOCIATION IN EDGARTOWN,
DUKES COUNTY, MASSACHUSETTS

This Declaration of Birnam Woods Association made this 11th day of April, 2007 by Birnam Woods Association Corporation (hereinafter called "the Declarant") being the owner of approximately 6.7 acres of land situated in the Town of Edgartown, Dukes County, Massachusetts, being the premises conveyed to Birnam Woods Association, Inc. by Sure Oil and Chemical Corporation by deed dated November 18, 1980 and recorded in the Dukes County Registry of Deeds, Book 377, Page 686, Witnesseth that:

Whereas, the Declarant intends to operate and maintain the common land and facilities and roads, streets and ways within the Birnam Woods Subdivision located in Edgartown, Massachusetts.

Whereas, in furtherance thereof to enforce the Declaration of Restrictions and Reservations dated 1978, pertaining to said Birnam Woods Subdivision.

Now, therefore, the Declarant declares, provides, covenants, and acts as follows:

1. Subject Property. The Property subject to this Declaration comprises and consists of the parcels of land numbered 1 through 21 inclusive, the Common Land Area, the Green Belt Area, and the streets and ways, all as shown on a plan of land entitled "Birnam Woods, A subdivision of Land in Edgartown, MA.," prepared by Schofield Brothers, Inc. of Vineyard Haven, MA. and recorded with the Dukes County Registry of Deeds as Edgartown Case File No. 143.

2. General Provisions. (a) The restrictions and reservations set forth herein shall run with the land and shall be binding upon all parties and all persons owning lots within the subdivision.

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(b) If the owners of such lots or any of them or their heirs and assigns shall violate any of the covenants or restrictions hereinafter set forth, it shall be lawful for any other person owning real property situated in such subdivision to prosecute any proceedings at law or in equity against the person or persons violating any of such covenants or restrictions and either to prevent such person from so doing or to recover damages for such violation or both.

(c) Invalidation of any of these covenants or restrictions by judgment or Court order shall in no way affect any of the other provisions which shall remain in full force and effect. Any grantee or grantees by accepting the deed to any lot in such subdivision accepts the same subject to such covenants and restrictions and agrees for himself, his heirs, his administrators and assigns to be bound by each of such covenants and restrictions jointly, separately and severally in the same manner as if these covenants and restrictions were incorporated into such deed. The failure to specifically refer to and incorporate this declaration of restrictions and covenants in deeds to lots of the subdivision shall not in any manner affect the validity of such covenants and restrictions and the premises described in such deeds shall be subject to such covenants and restrictions.

3. Restrictions and Reservations.

(a) All lots in the subdivision shall be used only for single family residential use and for no other use including any type of in-home business. Only one single private residence designed for occupancy of one family may be erected or maintained on any one lot. A detached garage or carport may be erected and maintained as part of the residence subject to the other restrictions herein.

(b) No single lot as shown on the present or herein after modified plan may be subdivided.

(c) No building or other structure, of whatsoever nature shall be erected, constructed, placed or maintained upon the premises, nor shall any addition to, change or alteration in any such building or other structure, of whatsoever nature, be made until plans and specifications showing the nature, kind, shape, height, materials, floor plans and locations have been submitted to and approved in writing by the Declarant.

(d) Lot grades shall not be changed in such a way as to divert the natural flow of water onto adjoining properties, or to flood or damage public roads and common drainage systems.

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(e) No structure shall be erected within forty (40) feet of the front lot line, nor within twenty (20) feet of the side lot lines or rear lot lines. Where two or more lots are acquired and used as a single building site, the side lot lines shall refer only to the lines bordering on the adjoining property owner.

(f) All buildings erected or constructed on any lot shall contain a minimum of Twelve Hundred (1,200) square feet for a one-story building and for a one and one-half or two story residence, the minimum ground floor area shall be 768 square feet. The method for determining the area of proposed buildings and structures shall be to multiply the outside horizontal dimensions of the building or structure at each floor level. Garage, carports, decks, porches, patios and terraces shall not be taken into account in calculating the minimum square foot area as required by this restriction.

(g) All construction must be completed within one year from the date of the issuance of the building permit.

(h) No earth, stone or gravel removed from the site of the foundations shall be allowed to remain on the lot in an unsightly manner.

(i) No building shall be left with an unfinished exterior. All exteriors of buildings shall be kept in a proper state of repair and maintenance.

(j) All garbage and trash containers and fuel storage tanks must be so located so as not to be visible from the adjoining properties or the public road.

(k) No mobile home or trailer used as residence shall be erected, placed, or caused to remain upon any lot of the subdivision. No construction equipment of any type shall be parked or stored on any lot. A single travel trailer, boat trailer and up to FOUR (4) registered vehicles are permitted to be parked or stored thereon as long as they are parked or stored in a neat manner and kept in a proper state of repair and maintenance.

(l) No unregistered motor vehicle and no junk shall be allowed to remain on any lot herein that would cause unsightly appearance.

(m) No commercial dog kennels will be allowed.

(n) No permanent tenting is allowed.

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(o) The Declarant and its business successors reserve the right, to themselves, their agents, employees, contractors and subcontractors to enter upon the land covered by these restrictions for the purpose of carrying out and completing the development of the subdivision as well as to abate, remove, or correct any violation of these restrictions, and such entry, abatement, or removal shall not be deemed a trespass, conversion, or other actionable wrong.

4. Deeds. The conveyance of each lot shall include an undivided one twenty-first (1/21) interest in all of the common land and shall include the right to pass and repass over the roads shown within the subdivision for all purposes which streets, roads and ways are commonly used in the Town of Edgartown. The conveyance of each lot shall be subject to the rights of others to pass and repass over the roads shown within the subdivision for the same purposes and subject to the right of the Declarant or its assigns to convey utility easements over the common land or roads for the purpose of serving the lots within the subdivision.

5. Birnam Woods Association, Inc. Each lot shall represent one membership in Birnam Woods Association, Inc., a nonprofit Massachusetts corporation, organized under the provisions of Chapter 180 of the Massachusetts General Laws (hereinafter "the Association"). The Association shall prescribe rules and regulations governing the operation and maintenance of the common land and facilities and the roads. The qualifications of such membership and the rights, duties, privileges and liabilities of members shall be as set forth in the Association's By-laws. Said By-laws shall also prescribe the method of operation of the Association and its rights and powers, which shall include, but not be limited to, the power to make periodic assessments on the members to carry out its duties of operation and maintenance. The By-laws shall not for any reason be amended or otherwise changed or interpreted so as to be inconsistent with the provisions of this Declaration.

6. Common Land. Each owner or owners of a lot shall have the right to use the common land and facilities in common with all other lot owners, subject only to reasonable regulations prescribed by the Association, and shall be obligated to pay their allocable share of costs of repairs and maintenance of the common land, facilities and roads and their allocable share of costs of liability insurance to the extent determined to be necessary by the Association. The allocable share of each owner shall be a fraction, the numerator of which is the number of lots owned by any owner and the denominator of which shall be 21.

7. Beneficiaries of Declaration. This Declaration is intended to be for the benefit of the Declarant or its assigns, and the owners of the lots within the subdivision. The terms of this Declaration may be enforced by the Declarant or its assigns, any lot owner, or the Association.

Birnam Woods Association Incorporated, owner of the premises described herein, does hereby publish and declare these restrictions and reservations which shall be binding upon the owner or owners of all lots in said Birnam Woods Subdivision as fully as though the same were set forth in detail in each conveyance and whether or not the same are specifically incorporated by reference in any conveyance of any conveyance of any of said lots.

This Declaration of Restrictions and Reservations supersedes any previous Restrictions and Reservations that were in effect prior to the date that this document was recorded at the Dukes County Registry of Deeds.

Birnam Woods Association, Inc.

By William T. LeRoy
William T. LeRoy, President

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss.

April 10, 2007

Then personally appeared the above named William T. LeRoy, President, and acknowledged the foregoing Declaration to be the free act and deed of Birnam Woods Association, Inc. before me,

[Signature]
Notary Public



My Commission Expires: 3/24/2011

Attest:
Deanne E. Powers Register