



**2002-008058-0**

Recording Dist: 302 - Kenai

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## **RESERVATIONS AND RESTRICTIVE COVENANTS FOR KENAI RIVER KEYS SUBDIVISION**

### **ARTICLE I. COVENANT FOR MAINTENANCE ASSESSMENT:**

#### **A. Creation of the Lien and Personal Obligation of Assessments:**

1. The owner of each lot within the Kenai River Keys Subdivision (hereinafter "KRK") as of the date of adoption of these Reservations And Restrictive Covenants For Kenai River Keys Subdivision (hereinafter "Covenants"), and all future lot owners upon the completion of purchase or other transfer thereof, hereby whether or not it shall be so expressed in any such deed or other conveyance shall be required to be a member of the Kenai River Keys Property Owners Association (hereinafter "Association"). As such, each lot owner is deemed to covenant and agree to the Association to pay all:
  - a. Annual Maintenance Assessments.
  - b. Special Assessments.
  - c. Capital Assessments.
2. All such assessments shall be fixed, established, and collected from time to time as hereinafter provided. The assessments, together with interest thereon as provided under Alaska law and costs of collection as herein provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made until paid. Each such assessment, together with interest thereon and costs of collections as herein provided or as provided by the Bylaws, Rules and Regulations of the Association shall also be the personal obligation of the owner(s) of such lots at the time when the assessment fell due as shall be interpreted by the Board of Directors of the Association.
3. Every owner of a lot shall automatically be a member of the Association, except that:
  - a. In the case of multiple owners only one (1) vote shall be available for each lot.
  - b. Owners of more than one lot shall be entitled to one vote for each lot owned.

4. Election of Directors and officers of the Association shall be in accordance with the Association's bylaws.

B. Purpose of Assessments:

The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, security and welfare of the residents in KRK and in particular for the maintenance and improvement of roadways, and commonly used facilities, including but not limited to:

1. Payment of the cost of maintaining all common areas, such as utility and other easements, canals, roads (including snow removal), other approved construction, and the like to reasonable standards established by the Board of Directors of the Association.
2. Payment of the cost of providing a locked gate to KRK. It is understood that a separate association exists for the construction, maintenance, etc. of an electrically operated gate.
3. Payment of the cost of insurance for the Association, including insurance protecting the association's Board of Directors against liability arising out of their functions and activities in the administration of KRK and the Association.
4. Payment of the cost of enforcing the provisions contained in the Covenants, including legal fees and costs, if such costs cannot be collected from the lot owner against whom the enforcement was directed.
5. Payment of fees for the professional services deemed necessary by the Board of Directors of the Association.
6. Payment of costs incurred in collecting any assessments, if such costs cannot be collected from the lot owner against whom the collection effort was directed.
7. Payment of expenses incurred in maintaining the Association as a non-profit corporation in accordance with all applicable laws and regulations, including any applicable income or other taxes.
8. Payment of any expense reasonably incurred by the Association, its Board of Directors, or duly appointed committees in carrying out any functions with which they have been charged or as otherwise authorized by the Board of Directors.
9. Payment by the Association of its overhead reasonably attributed to the performance of the functions set forth herein and in the Association's by-laws.



C. Basis of Annual Maintenance Assessments:

1. The Annual Maintenance Assessment shall be determined in accordance with the by-laws of the Association.
2. The Board of Directors may set aside a portion of the Annual Maintenance Assessment in a separate fund for the repair and replacement of the improvements on the common areas, such as roadways, which must be improved or replaced on a periodic basis.

D. Capital Improvement Assessments:

In addition to the Annual Maintenance Assessments authorized above, the Association may levy, for purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of the common areas or any approved improvement thereon, including the necessary fixtures and personal property related thereto, provided that any such capital assessment shall have the assent of three-fifths (3/5 or 60%) of the votes of all of the members who are voting in person or by proxy at an Association meeting duly called for this purpose.

E. Special Assessments:

Special assessments for specifically designated purposes may be levied with the assent of two-thirds (2/3 or 66.667%) of the votes of all of the members who are voting in person or by proxy at an Association meeting duly called for this purpose.

F. Meetings to Approve Assessments:

Written notice of any meeting called for the purpose of levying any Special Assessments or Capital Improvement Assessments shall be delivered to all owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting called, the presence of owners or of proxies entitled to cast thirty-three per cent (33%) of all votes shall constitute a quorum. The delivery of notice provision may be accomplished by delivery to the residence or mailbox of each owner and posting a notice at or near the entrance to KRK.

G. Uniform Rate of Assessment:

Annual Maintenance, Capital Improvement and Special Assessments must be fixed at a uniform and equal rate for the owners of each lot.

H. Date of Commencement of Payment of Assessment and Due Dates:

The Annual Maintenance Assessments provided for herein shall commence and be due on the dates set by the Board of Directors. The due date of any Capital



Improvement or Special Assessment shall be fixed in the resolution authorizing such Assessment.

I. Effect of Nonpayment of Assessments and Remedies of the Association:

1. Assessments by the Association shall be subordinate to all taxes and special assessments or other liens on the lots by any assessing governmental unit, and all sums unpaid on any prior mortgage or deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances.
2. No owners may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of his/her lot.
3. First Mortgagee is entitled to written notification of any default by the owner of the lot upon which the first mortgage exists when there is a default in the performance of such owner's obligations and such default has continued for a period of one hundred eighty days (180) days. The costs of determining if such mortgage exists and of notifying the First Mortgagee shall be added to the assessment against the lot.
4. The Association, through its Board of Directors shall maintain such legal actions as are necessary to collect unpaid assessments. Foreclosure of any lien of assessment and personal judgment against the owner are available, but not exclusive remedies to be employed to collect delinquent assessments. The Board of Directors shall have full discretion to determine the timing and nature of the placing of liens and/or other collection efforts
5. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, a Mortgagee who comes into possession of a lot pursuant to the remedies provided for in the mortgage including any transfer of title in lieu of foreclosure shall take said lot subject to any claims for unpaid assessments upon said lot which have accrued prior to the time such Mortgagee comes into possession of the lot. No such sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

- J. It shall be the sole responsibility of each lot owner to inform the Association of any change of mailing address or of any sale or transfer of ownership of the lot. Lot owners are also solely responsible for providing any new lot owner with a copy of these Covenants.

ARTICLE II. BUILDING LOCATION:

No building or appurtenant structure shall be located nearer than 5 feet to any lot line (i.e., set-back).



### ARTICLE III. RE-SUBDIVISION:

The area of the lots herein described shall not be reduced in size by re-subdivision, except that the owners of three contiguous lots may divide the inner of the 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. All re-subdivision shall be submitted to the Kenai Peninsula Borough for approval.

### ARTICLE IV. EASEMENTS:

- A. Easements for the installation and maintenance of the utilities, drainage facilities, and roads are reserved as shown on the recorded plat (number 72-62, such document having been recorded at the Kenai Peninsula Borough on November 3, 1972). Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, change the direction of flow or drain channels in the easements, retard the flow of water through drainage channels in the easements or restrict the passing of vehicles (on the road easements).
- B. Easements for roadways within the subdivision are shown on the recorded plat. Such easements are reserved for the exclusive use of lot owners in the KRK, their guests, the Kenai Peninsula Borough, which shall have a right of access for the performance of municipal functions such as the provision of fire and police protections, etc., and the utility companies which shall have the right of access for line installations and maintenance of utilities. All easements for roadways are private and are not available for use by the general public.
- C. Each such easement shall be at least twenty (20) feet in width or as shown on the official plat of the KRK Subdivision.
- D. Easements for canals within the subdivision are shown on the recorded plat. All canals are no-wake zones for boats.
- E. Further easements are also included in the document entitled "Declaration of Easements" dated November 27, 1972, and an amendment thereto dated June 6, 1978.
- F. Easement and set-back violations by permanent structures constructed prior to the effective date of these Covenants shall be accepted under "Grandfather Rights" and shall not be considered violations hereof. All new structures, including replacements of existing structures, shall conform to all requirements of these covenants and all properly recorded easements.

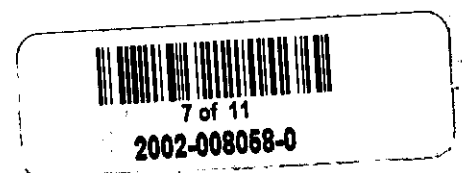


## ARTICLE V. RESTRICTIONS ON USES OF PROPERTY:

- A. **NUISANCES:** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become any annoyance or nuisance to the KRK. Such activity, annoyance or nuisance shall include but is not limited to storage of heavy equipment, derelict autos or junk, noise louder than 70 decibels at the property line, use of fireworks, etc.
- B. **OIL AND MINING OPERATIONS:** No oil or gas drilling operations, refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No surface entry is permitted. No extraction of minerals within a 500 foot buffer from the surface is permitted.
- C. **FIREARMS:** There shall be no discharge of firearms within KRK, except in the defense of life or property
- D. **ACCESSORY USES AND STRUCTURES:**
1. Accessory uses and structures are permitted, including home occupations, which are clearly incidental to and customarily found in connection with the residential nature of KRK. "Home Occupation" means an accessory use of a dwelling unit or accessory building or structure for an occupation, profession, or other business activity which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and which does not change the character of a residential neighborhood. Retail or other businesses involving visitation by numerous members (more than 2 individuals per day) of the general public are prohibited.
  2. Use of recreational vehicles as dwelling units by property owners and their non-paying guests shall be permitted.
  3. Rentals of recreational or other vehicles is prohibited.
  4. Rentals or use rights with respect to river or other waterway access or boat mooring are prohibited. This includes launching fees or other compensation for river or other waterway access. Rental agreements purporting to guarantee such use which are contrary to these Covenants shall in no way limit the application of this section.
  5. Bed and breakfast type of operations are prohibited.
  6. Non-owner occupied rentals or leases of residences or cabins, etc. are permitted, but for single family units only and the minimum lease or rental period must be for six (6) months plus one day. No commercial leases, sub-leases or sub-rentals are permitted. Lessees must abide by these Covenants. No more than two (2) permanent structures may be occupied simultaneously under such leases on any single lot.
  7. The docking or basing of any type of commercial boats is prohibited.



8. Subject to approvals by any other authority exercising jurisdiction, a private boat launch is permitted on Tract C for the personal and non-commercial use of the members of the Association.
9. Garage sales are prohibited except if they are limited only to members of the Association due to the gated neighborhood nature of KRK. "Garage Sales" means any sales activity for the purpose of disposing of personal property items. The term "Garage Sales" shall include other activities known as "moving sales", "rummage sale", "yard sales", and similar sales activities.  
Members-only garage sales:
  - a. Shall be of a temporary nature not to exceed two (2) sales per calendar year with a maximum of four (4) sales days per calendar year. Conduct of sale during any portion of a calendar day shall count as an entire day toward the limit set under this section.
  - b. Shall not cause unsightly conditions or waste visible from off the property.
  - c. Shall be advertised by signs placed only on the bulletin board near the KRK gate and/or on the seller's own lot. Signs shall be clearly marked with the proprietor's name, address, phone number and the date(s) of sale. Signs shall be posted no more than one (1) week prior to the sales and shall be removed no more than one (1) day following the sale. Non-complying signs may be removed by any member of the Board of Directors of the Association.
  - d. Estate sales may be conducted in accordance with laws and government regulations relating thereto.
10. Fishing or hunting guiding, water taxi, boat charter or any similar operations and commercial fishing operations are prohibited.
11. Boat or vehicle rental or repair businesses are prohibited.
12. Animals:
  - a. Dogs, and other pets must be kept on a leash or under direct observation and strict voice control of their owner at all times. Animals shall not be permitted to disturb or harass other animals or humans in any manner. Pet droppings on other owners' lots or on common areas must be picked up and disposed of by the owner of the pet involved.
  - b. No animals other than dogs, cats and other very small animals normally kept as pets (such as hamsters, turtles, or other small animals of the nature generally sold in local pet supply stores) shall be permitted. No more than six (6) pets shall be maintained on a single lot, no more than three (3) of which may be dogs.



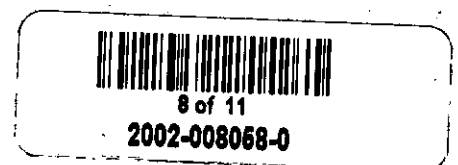
- c. No farm animals, livestock, chickens or other birds of any sort (except small pet birds maintained indoors) may be raised or maintained on any lot.
  - d. These limitations and rules pertaining to animals shall apply to animals accompanying guests of lot owners. The combined number of animals being kept on a lot, including those of guests, shall not exceed the limits set forth above.
13. Lots shall not be used for open storage of any abandoned (as to be defined by the Board of Directors) items such as motor vehicles, boats, trailers, ice boxes (refrigerators), stoves, washers, dryers, other appliances, glass, building materials, portable storage or shipping facilities, building rubbish, or similar items. It shall be the duty and responsibility of every lot owner to keep the premises clean and to remove from the lot all such abandoned items. Dead trees, trash, and garbage shall be removed from the lot upon notice from the Board of Directors.
14. Garages, storage buildings, workshops, docks, piers, boat hoists, bulkheads, screened enclosures, fences, walls, driveways, antennas, and all other accessory structures shall be maintained and kept in good repair and sound structural condition.
- E. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a disposal site. Rubbish, trash, garbage or other waste shall not be kept except in sanitary containers. No dumping shall be permitted in the Kenai River or any other canal or other waterway.
- F. **FISH CLEANING:** Fish cleaning is permitted along the Kenai River and any other canal or other waterway. However, no fish carcasses or fish parts shall be placed in the canals since there is no flow of current to wash them away.

#### ARTICLE VI. WATER:

Private wells must meet the requirements, standards and recommendations of the appropriate government agencies.

#### ARTICLE VII. SEWER:

No individual sewage disposal system, other than holding tanks, shall be installed on any lot unless approved by all of the appropriate governmental agencies and the Board of Directors of the Association. Self-contained toilets may be used in dwellings, but must be removed from KRK to be emptied. All sewage must be disposed of into individual non-perforated holding tanks or individual sewage disposal systems, the installation of which must meet the requirements of the appropriate governmental agencies.





**ARTICLE VIII. UTILITIES MAINTENANCE:**

All lot owners are subject to the requirement that they:

- A. Pay to install their own individual water and sewage holding tanks.
- B. Pay for their own pumping of individual water and sewage holding tanks.

**ARTICLE IX. SPEED LIMITS:**

The Board of Directors of the Association shall have the authority to set and enforce speed limits on the road, utility, and canal easements in KRK.

**ARTICLE X. ENFORCEMENT:**

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. When a violation of the Covenants is discovered, the following procedures shall be followed:

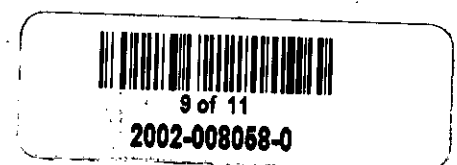
- A. The Board of Directors of the Association shall notify in writing via certified mail, and by notice posted at the site of the violation, the person responsible for such violation. The notice shall specify the nature of the violation and order abatement within a reasonable period of time, to be no longer than one hundred eighty (180) days.
- B. If a violation is not corrected within the stated period, the Board of Directors of the Association shall hire an attorney to initiate legal action to abate the violation. The costs of such enforcement shall become the liability of the lot owner against whom the enforcement action was taken, unless otherwise ordered by the applicable court of jurisdiction.

**ARTICLE XI. SEVERABILITY:**

Invalidation of any one of these covenants by a judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

**ARTICLE XII. TERM:**

- A. The foregoing Restrictions and Conditions for the Kenai River Keys Subdivision are hereby declared and adopted by the Owners of the lots in the Subdivision and all easements created, granted, and reserved are declared to be the act of the Owners, and all conditions on purchase and ownership of property in the Subdivision shall be deemed and considered covenants running with the land, for a period of fifteen (15) years from the date of the recording of the covenants.
- B. At the expiration of that period of time, the Restrictions and Conditions may be changed by the approval of sixty percent (60%) of the lot owners within the



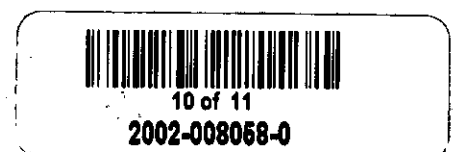
Subdivision who are entitled to vote; otherwise, said covenants shall be automatically extended for successive periods of ten (10) years.

- C. However, these Covenants may be amended during their 15 year term, or during succeeding 10 year periods of continuance, by the affirmative vote in favor of amendment of not less than seventy-five percent (75%) of all lot owners entitled to vote.
- D. As to the change and amendment process, the voting shall be administered by the Board of Directors. Proposed changes or amendments shall be prepared in writing by a committee of at least seven (7) lot owners appointed by the Board of Directors. A copy of the proposed changes and amendments shall be mailed to lot owners at least thirty (30) days in advance of a meeting of the lot owners which must be held to explain and discuss the proposed changes or amendments. A final version of the proposed changed and amended covenants, along with a ballot shall then be mailed to each lot owner. A minimum of thirty (30) days shall be allowed for the return of completed ballots which shall be counted and certified by the Board within thirty (30) days from the deadline for the return of the ballots.

#### Article XIII. SUPERSEDING OF PRIOR COVENANTS

These revised Covenants supersede in total the previous Covenants and Restrictions upon the KRK property executed October 30, 1972, and recorded in the Kenai Recording District in Book 68, page 299 on November 3, 1972. These Covenants shall be recorded in the Kenai Recorders Office, Kenai, Alaska.

Return to: Kenai River Keys Property Owners Association, Inc.  
PO Box 1073  
Sterling, AK 99672



**CERTIFICATION:**

As members of the Board of Directors of the Kenai River Keys Property Owners Association, and having acted as the election committee for approval of these revised Restrictions and Conditions for the Kenai River Keys Subdivision, we hereby certify that these revised Restrictions and Conditions for the Kenai River Keys Subdivision were adopted by the approval of a majority of the lot owners within the Subdivision.

Dated as of: August 12, 2002

Don Deasy  
Don Deasy, President

W. H. Miller  
William H. Miller, Director

Tom Barber  
Tom Barber, Director

Cliff Alexander  
Cliff Alexander, Director

**ACKNOWLEDGMENT**

UNITED STATES OF AMERICA)  
STATE OF ALASKA ) ss.

Don Deasy, Tom Barber, Wm. H. Miller, and Cliff Alexander  
appeared before me on the 12th day of August, 2002, at Steedung, Alaska. I know them to be the persons described in and who executed the above instrument. They said they knew the contents thereof and acknowledged the same to be their act.

Ernestine R. Alexander  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

