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Declaration of Covenants, Conditions and Restrictions for  
the Plat of Kennedy Waters

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5309

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE PLAT OF KENNEDY WATERS**

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made on the date hereinafter set forth by the McKeough Land Company, Inc., an Illinois corporation, hereinafter referred to as the "Developer."

**WITNESSETH**

**WHEREAS**, the Developer, being the owner of all real property contained in the Plat of Kennedy Waters which is located in part of the NE1/4 of the NE1/4, part of the SW1/4 of the NE1/4, and part of the SE1/4 of the NE1/4, Section 5, Township 19 North, Range 5 East, Town of Monroe, Adams County, Wisconsin (subject to and together with any and all appurtenances and easements, licenses, restrictions and conditions of record) as recorded in the Office of Register of Deeds for Adams County, Wisconsin, does hereby make the following declarations as to covenants, conditions and, restrictions to which all of the Lots in the Development may be put.

**WHEREAS**, the Developer has divided the Development into Lots identified by the numbers "1 - 39", each of which is individually referred to as a "Lot" and which are collectively referred to herein as the "Lots".

**WHEREAS**, the Developer has plans to include two outlots as part of the Development, depicted as "Outlot 1" and "Outlot 2" on the Plat of Kennedy Waters.

**WHEREAS**, the Developer wishes to permit the development of the Development into a community suitable for family and recreational living and, at the same time, wishes to maintain insofar as possible, the natural character of this beautiful property.

**WHEREAS**, it is essential to the value of the Lots that the Development be perpetually maintained in a manner consistent with high environmental, aesthetic and residential standards.

**WHEREAS**, to accomplish the foregoing, the Developer desires to impose certain building and use restrictions, covenants, and conditions, as herein contained, upon and for the benefit of said Lots and the Development as a whole.

**WHEREAS**, the Developer is willing to sell the Lots, but all buyers and subsequent owners hereby accept such Lots subject to the declarations, covenants, conditions and restrictions set forth herein.

**NOW THEREFORE**, the Developer hereby declares and provides that the Development is hereby subject to the following covenants, conditions and restrictions:

**ARTICLE 1**  
**DEFINITIONS**

- 1.1 "Association" shall mean the Kennedy Waters Association, Inc., a Wisconsin nonstock corporation.
- 1.2 "Developer" shall mean the McKeough Land Company, Inc., the owner of the land within the Development, or its successors or any person or entity to whom or to which it may, in a document recorded with the office of Register for Deeds of Adams County, Wisconsin, expressly assign one or more of its rights hereunder or delegate its authority hereunder.
- 1.3 "Development" shall mean the Plat of Kennedy Waters, subject to and together with any and all appurtenances and easements, licenses, restrictions and conditions of record.
- 1.4 "Lot" shall mean any one of the numbered Lots within the Development, exclusive of the Outlots. "Lots" shall mean all such Lots.
- 1.5 "Lot Owner" shall mean any person or other entity owning or purchasing a Lot and any person having the right of occupancy of the dwelling contained on such Lot.
- 1.6 "Mobile Home" shall mean any dwelling, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.
- 1.7 "Outlots" shall mean the Outlots depicted as "Outlot 1" and "Outlot 2" on the Plat of Kennedy Waters.

**ARTICLE 2**  
**SUBDIVISION**

No Lot or Outlot may be further subdivided unless the resultant parcels created by the division are decided to an adjacent Lot Owner(s) to increase the size of an existing Lot.

**ARTICLE 3**  
**CARE AND APPEARANCE OF PREMISES**

Lot Owners shall maintain the exterior of all improvements on any Lot and the Lot itself in a neat and attractive manner and in good condition and repair.

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**ARTICLE 4**  
**PERMITTED AND PROHIBITED USES**

- 4.1 No Lot or Outlot shall be used, nor shall any structure be erected thereon or moved thereupon, unless the use thereof and location thereon satisfies the requirements of applicable zoning ordinances which are in effect at the time of the contemplated use or the construction of any structure, or unless approval thereof is obtained from the appropriate zoning authority.
- 4.2 Except as otherwise specifically provided herein, Lots shall be used for the construction of one single-family residence and structures and outbuildings incidental to the use thereof (including, without limitation, barns, stables and garages for private, and not public or commercial use) and shall be limited in use to single-family residential use. Home businesses are permitted if operated entirely within the dwelling and excessive traffic and parking requirements are not generated. No signage relating to home businesses shall be permitted. However, these restrictions on use shall not be construed to prohibit a Lot Owner or occupant from (a) maintaining a personal professional library, (b) keeping personal business or professional records or accounts, or (c) handling personal business or professional telephone calls or correspondence.
- 4.3 Mobile Homes are not permitted.
- 4.4 No unregistered vehicle (unless garaged), trash, refuse pile or unsightly or objectionable object or materials shall be allowed or maintained upon the Development. Not more than one (1) recreational vehicle, including, but not limited to boats, trailers, campers, ATVs and snowmobiles, shall be stored on any Lot (unless garaged), and furthermore, no such aforementioned vehicles may be stored upon a Lot prior to the completion of the construction of the dwelling on the Lot. As to snowmobiles and ATVs, a trailer fabricated to accommodate up to four (4) such recreational vehicles is herein to be construed as one (1) such vehicle.
- 4.5 No noxious or offensive trade or activity and no activity which is in violation of any law, ordinance, statute, or governmental regulation shall be conducted in the Development, nor shall anything be done which may be or become an annoyance or nuisance to the other Lot Owners in the Development.
- 4.6 The exterior of any structure or improvement being constructed upon a Lot shall not remain incomplete for a period of longer than nine (9) months from the date upon which construction of the improvement was commenced. All construction shall be diligently pursued to completion, and such completion shall occur prior to occupancy.
- 4.7 Not more than 50% of trees which are 12 inches or more in diameter measured at a height of 4 feet, shall be removed from any Lot, except for dead, hazardous, and diseased trees.

- 4.8 Unless otherwise restricted by applicable zoning laws and regulations, camping, including the use of recreational camping vehicles, is permitted on a Lot (specifically not to include the Outlots) for not more than 14 consecutive days nor more than 50 days in any calendar year. All camping vehicles, tents, rubbish and debris associated with camping activities shall be removed from the premises upon departure.
- 4.9 All garbage and refuse shall be promptly disposed of so that it will not be objectionable to neighboring Lot Owners. No outside storage for refuse or garbage shall be maintained or used unless the same shall be properly concealed with vegetative screening.
- 4.10 Propane gas tanks shall be located in such areas as to be as inconspicuous as possible.
- 4.11 Except as otherwise provided herein or in any duly adopted rules and regulations of the Association, the Outlots shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except that Lot Owners may store their personal boat slips or shore stations on Outlot 2. On Outlot 2 there shall be no clearing of trees within twenty (20) feet of its north, south and west lot lines and within forty (40) feet of its east lot line except as is necessary for the construction of a driveway.
- 4.12 No Lot Owner shall use or permit the use by occupant, agent, employee, invitee, guest or member of his/her family of any firearms anywhere within the Development. Hunting of any kind is prohibited on the Development.
- 4.13 For a period of 3 years from the date this Declaration is recorded, no signs or other advertising devices shall be displayed which are visible from the exterior of a Lot including "For Sale " signs, except those signs placed by the Developer for so long as the Developer owns any Lot(s). Garage and yard sale signs, on the actual days of any such sale are permitted. All such sales must not be conducted for more than three (3) consecutive days, a maximum of three (3) times per year.
- 4.14 The Developer has reserved all mineral rights in the Plat of Kennedy Waters, and, except as otherwise provided herein, mineral exploration of any kind is expressly prohibited therein. Exploration and removal of minerals is permitted if no surface activity nor reduction of vertical support of the surface will occur.
- 4.15 The main boat pier, which will be constructed by the Developer on WRPCo lands located in the immediate vicinity of Outlot 1, is for the exclusive use of and is the common property of all Lot Owners. This main boat pier is not designed for docking of watercraft for extended periods of time, such as overnight dockage, since wind and/or water forces in conjunction with the inertia of docked watercraft could pose a risk to the stability of the main boat pier. Hence, Lot Owners are permitted to use the main boat pier for the temporary docking of their watercraft for only the convenience of brief periods of docking.

- 4.16 In the event that the Developer is able to obtain for the Lot Owners of Lots 8-27 the right to attach one boat slip per Lot to the main boat pier, said slips, which will be the personal property of the Lot Owners, shall be constructed in a manner that is consistent with the material and quality of the main boat pier constructed by the Developer. The length of any such slip shall accommodate the Lot Owner's boat and shall not be unreasonably larger than is necessary to accommodate the Lot Owner's boat and to allow for safe navigation.
- 4.17 The right to attach a personal boat slip to the main boat pier may be leased by a front Lot Owner to another Lot Owner. Leasing of said boat slip rights to other than a Lot Owner is prohibited. The sale of said boat slip rights to any person is specifically prohibited, except as an appurtenance to a Lot being sold.

**ARTICLE 5**  
**CHARACTER OF BUILDINGS AND CONSTRUCTION**

- 5.1 The Developer recognizes that there can be an infinite number of concepts and ideas for the development of the Lots. The Developer wishes to encourage the formulation of new or innovative concepts and ideas. Nevertheless, for the protection of all Lot Owners, and for the preservation of the Developer's concept for the development of the Development, the Developer wishes to make certain that any development of a Lot will maintain the natural beauty of the Development, and blend man-made structures into the natural environment to the extent reasonably possible.
- 5.2 Each dwelling constructed on a Lot shall have a minimum of 1,200 square feet of finished living area on the first floor above grade excluding any garage, basement and porch.
- 5.3 All exteriors will be rustic in appearance, composed of natural wood (e.g. redwood, cedar or logs), brick, stone, and/or vinyl siding (with a natural wood appearance). Lot Owners are encouraged to complete the exterior of any dwelling in natural, rustic, earth-tone hues with flat finishes. No aluminum siding will be allowed except for such uses as gutters, trim, soffits and fascia.
- 5.4 All garages and outbuildings, including any additional unattached garage, must be architecturally related to and must match the overall color scheme of the dwelling and must be constructed only of materials permitted for the construction of residences. Outbuildings and garages shall not be constructed or placed upon any Lot prior to six months before commencement of the construction of the dwelling. No metal outbuildings are permitted.
- 5.5 All dwellings, garages and accessory buildings on Lots 8-27 shall have gutters. Said gutters shall direct stormwater runoff away from Petenwell Lake in such a manner to prevent direct discharge of said runoff into Petenwell Lake.
- 5.6 All roofs on all structures shall have a pitch of at least 8:12.

- 5.7 Earthberms, underground and dome homes are prohibited.
- 5.8 All utilities constructed within the Development shall be located underground.

**ARTICLE 6**  
**LANDSCAPING AND GRADE**

- 6.1 Natural groundcover, wood chips or other natural plantings indigenous to wooded areas are encouraged.
- 6.2 Existing trees and natural cover (wildflowers, groundcover, shrubs, etc.) shall be preserved wherever possible and practical.
- 6.3 The grade of the respective Lots shall be maintained in harmony with the topography of the Development and with respect to adjoining Lots.
- 6.4 In the interest of preserving the existing condition of natural slopes, the Lot Owners shall maintain groundcover to prevent water and wind erosion on their Lot.
- 6.5 The location of all improvements shall be designed and located so as to be compatible with the natural surroundings and with the other Lots.
- 6.6 Silt fencing shall be installed in appropriate areas prior to site excavation, driveway construction or landscaping activity and where exposed soil may be subject to runoff and erosion. Said silt fences shall be maintained until the landscaping necessary to prevent erosion of soil is completed. These preventative soil erosion measures must be completed within six (6) months after the date of completion of the exterior of the dwelling or outbuilding.
- 6.7 Lot Owners owning Lots along the land owned by Wisconsin River Power Company ("WRPCo") and adjacent to Petenwell Lake shall not permit any runoff from their Lots to discharge directly onto WRPCo shoreline lands. All finish grading of the Lots shall as much as reasonably possible slope the grade away from Petenwell Lake.

**ARTICLE 7**  
**EASEMENTS**

- 7.1 No Lot Owner shall be permitted to grant any right-of-way or easement across his Lot, except to another Lot Owner or to benefit a Lot governed hereby. Neither may a Lot Owner use all or any portion of his Lot to establish a road access to property not included in the Development.
- 7.2 Any type of permanent construction or improvement within designated easement areas, other than those provided for herein (and including the construction of driveways and placement of mailboxes), is prohibited.

**ARTICLE 8**  
**KENNEDY WATERS ASSOCIATION, INC.**

- 8.1 Lot Owners shall automatically by virtue thereof become a member of the Association. The Association is entitled to carry on such business as is authorized by its Articles of Incorporation and Bylaws.
- 8.2 As a member of the Association and in consideration of any license rights and the right to use the Outlots, each Lot Owner agrees for himself or herself, and his or her heirs, successors, and assigns, to pay to the Association any dues, assessments for maintenance charges, costs, or fines (collectively, the "Dues") as may from time to time be levied by the Association for maintenance, repairs, improvements, insurance, license fees, or for any other lawful purpose. Any such Dues shall not apply to the Lots owned by the Developer. Dues may be assessed annually and from time to time to meet the needs and commitments of the Association. Lot Owners shall pay at closing one-half of the annual Dues established by the Association for 2000 and commence paying annual Dues in full beginning in 2001.
- 8.3 Notice of the amount of any Dues, other than those specified in Section 8.2 above as being due at closing, shall be given to the Lot Owner by first-class mail addressed to his or her last known address as it appears on the rolls of the Association.
- 8.4 Any Dues not paid on or before the due date established by the Association shall be considered as being in default and shall bear interest at the highest rate then permitted by law or such lesser rate as the Association may establish. Such interest and all costs incurred by the Association in connection with the collection of any such charge, including, without limitation, reasonable attorney fees, shall be collectible by the Association and shall constitute a continuing lien upon any Lot within the Development owned by the Lot Owner responsible therefor. The Association shall have the right to proceed at law or in equity to foreclose such lien. All such charges shall also be the personal obligation of the Lot Owner against whom they were assessed.

**ARTICLE 9**  
**RULES AND REGULATIONS**

The Association may promulgate rules and regulations specifically authorized hereunder and such other rules and regulations as may be reasonably necessary or helpful to achieve the quality of living in the Development desired by the Association. All Lot Owners and their guests and invitees shall abide by such rules and regulations, and the Association may establish and levy fines for any failure to comply with the same.

**ARTICLE 10**  
**ASSIGNMENT OF RIGHTS**

All rights hereunder granted to Lot Owners shall not be further assignable except as an appurtenance to and in conjunction with the sale of their Lot.

**ARTICLE 11**  
**VIOLATION OF PROVISIONS**

- 11.1 In the event that any Lot Owner violates the terms of this Declaration, the Developer, the Association, or any Lot Owner(s), not earlier than thirty (30) days after it has delivered written notice to a Lot Owner of a violation of one or more of the provisions hereof, may enter upon the violating Lot Owners Lot and correct the violation and alter, repair, or change any building, structure, or thing which may be upon the Lot in violation thereof so as to make such improvement or thing conform to such provisions.
- 11.2 The Developer, the Association, or any Lot Owner(s) may charge the Lot Owner for the entire cost of the work done pursuant to the provisions of this section, which shall become a lien against the Lot Owner's Lot.

**ARTICLE 12**  
**ENFORCEMENT**

- 12.1 In addition to any rights set forth in Article 11 for a violation or breach of any of the provisions hereof, the Developer, the Association, any Lot Owner(s), or any municipal governing authority shall have the right to proceed at law or in equity to prevent the violation or breach of the provisions of this Declaration or to recover damages for such violation and to foreclose any lien granted hereunder.
- 12.2 In any action or suit to enforce the provisions hereof, the prevailing party shall be entitled to recover its reasonable attorney fees and other legal costs.

**ARTICLE 13**  
**DURATION AND EFFECT**

The provisions hereof shall run with the Development and shall be binding upon all Lot Owners and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by the requisite number of Lot Owners set forth in Article 14 has been recorded agreeing to cancel, amend or change, in whole or in part, this Declaration.

**ARTICLE 14**  
**AMENDMENT**

- 14.1 The Developer hereby reserves the right to amend these restrictions without the consent of the Lot Owners for any purpose, if the amendment does not materially alter or change the rights of a Lot Owner.

- 14.2 These restrictions may be rescinded or amended, in whole or in part by an appropriate recorded written instrument executed and acknowledged by not less than three-fourths (3/4) of the Lot Owners; provided, however, that any such rescission or amendment must be acknowledged by all of the Lot Owners if:
- (a) it changes the single-family nature of the Development; or
  - (b) it expands the rights of a Lot Owner to subdivide a Lot or to place more than one house on a Lot.
- 14.3 Any amendments shall become effective ten (10) days after a notice of adoption of the amendment, together with a copy of the recorded amendment, are mailed to all Lot Owners. Notwithstanding the foregoing provisions of this section, certain rights reserved by the Developer herein shall not be terminated by any amendment without the consent of the Developer.

**ARTICLE 15**  
**SEVERABILITY**

- 15.1 The invalidation of any one or more of the reservations and restrictions provided herein, by judgment or court order, or the amendment of any one or more of the restrictions as herein above provided, shall in no way affect any of the other provisions herein, which shall remain in full force and effect.
- 15.2 In the event that there exist now or in the future regulations, federal, state, local, or otherwise, that are more restrictive than those contained herein, the more restrictive regulation shall apply.
- 15.3 In the event this Declaration conflicts with the terms of the Articles of Incorporation or Bylaws of the Association, the terms of this Declaration shall control.

