




## **KENAI PENINSULA BOROUGH**

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**DAVE CAREY**  
**BOROUGH MAYOR**

### **MEMORANDUM**

**To:** Milli Martin, Assembly President  
Kenai Peninsula Borough Assembly Members

**From:** Bill Smith, Assembly Member 

**Date:** August 4, 2009

**Subject:** Deed Restrictions in Ordinance 2009-41

Deed restrictions serve a valuable function when the Borough transfers title or other interest in lands by negotiated sale or by sale at less than fair market value. These types of sales occur when the particular circumstances of the property and purchasing entity are such that it is deemed to serve a public purpose for the Borough to transfer land title without a competitive bid process. The deed restrictions ensure the public purpose that allowed the special sale is served. Since I have witnessed instances where deed restrictions, often 30 to 50 years old, are unreasonable restrictions on the use of land, I began to think that some deed restrictions should have a time limit. Said time limit should be set for a period when one can reasonably expect the special public purpose for the deed restriction has been filled and is no longer a reasonable burden on the landowners.

Therefore, I propose that, within Ordinance 2009-41, the deed restrictions be time limited on the two parcels of land in Cooper Landing that were sold to the Cooper Landing Senior Citizen Corporation for Senior Housing purposes. My opinion is that after serving the public for a period of 20 years, the public purpose of the special sale conditions will have been met.

Following are the proposed amendments:

- Insert a new 11<sup>th</sup> Whereas clause that reads as follows:

WHEREAS, a deed restriction in perpetuity is not required to serve the public interest or to protect the borough's ability to enforce the deed restriction for a reasonable length of time;

- **Insert a new Section 3:**

**SECTION 3. That all deed restrictions enumerated in this ordinance shall expire and be null and void after a period of 20 years have elapsed following enactment of this ordinance, provided the grantee complies with all terms and conditions of the deed restrictions for the entire 20-year period.**

- Renumber Section 3 to Section 4
- Renumber Section 4 to Section 5

I respectfully request your support for these amendments.