

# **Declaration of Covenants, Conditions, and Restrictions**

## **THE COTTAGES AT LEGACY CREEK HOMEOWNERS ASSOCIATION, INC,**

Exhibit D

To

Disclosure Statement

**NOTE:** This document was converted from the official document that was scanned in as a PDF document when it was signed and registered. All care was taken when creating this “searchable” version of the original document. (HOA Disclosure Pkg.pdf)

**THE COTTAGES AT LEGACY CREEK HOMEOWNERS ASSOCIATION, INC.  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, entered into the 5 day of November, 2009, by Mainland Development LLC, a Minnesota limited liability company ("Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real property in the City of Blaine, County of Anoka, State of Minnesota, which is more particularly described in Exhibit A attached hereto and incorporated herein (the "Property"); and

WHEREAS, Declarant is also the owner of certain real property in the City of Blaine, County of Anoka, State of Minnesota, which is more particularly described in Exhibit B attached hereto and incorporated herein (the "Additional Property").

WHEREAS, Declarant is desirous of developing the Property as single family Residences (as that term is defined herein); and

WHEREAS, Declarant desires to establish covenants restricting the use and alteration of the Property and any Additional Property added thereto; and

WHEREAS, Declarant intends to create community amenities, including islands/medians and landscaped areas. The aforementioned Community Areas and Maintenance Areas (as those terms are defined herein) shall be maintained by The Cottages at Legacy Creek Homeowners Association, Inc. (the "Association") for the use and enjoyment of all the Owners and Occupants (as those terms are defined herein) residing within the Property; and

WHEREAS, the Property shall be conveyed, subject to certain protective restrictions, covenants, conditions, reservations, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, reservations, liens and charges which are for the purpose of protecting the value and desirability of the Property, and shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## **ARTICLE I DEFINITIONS**

Section 1. **"ADDITIONAL PROPERTY"** shall mean and refer to the real property legally described in Exhibit B, attached hereto and incorporated herein, including all improvements located thereon now or in the future and all easements and rights appurtenant thereto, which property Declarant has the right to add to the Property.

Section 2. **"ARCHITECTURAL REVIEW COMMITTEE" OR "A.R.C."** shall mean and refer to that permanent committee of the Association created for the purpose of establishing and enforcing architectural standards for the construction and modification of Improvements (as that term is defined herein).

Section 3. **"ARTICLES OF INCORPORATION"** shall mean the Articles of Incorporation of The Cottages at Legacy Creek Homeowners Association, Inc., as such may be amended from time to time and as filed with the Minnesota Secretary of State's Office.

Section 4. **"ANNUAL ASSESSMENTS"** shall mean and refer to an Assessment (as that term is defined herein) levied against each Lot (as that term is defined herein) to cover all of the anticipated expenses related to the Community Area(s) and the Maintenance Areas.

Section 5. **"ASSESSMENT"** shall mean and refer to any Assessment levied by the Association pursuant to the governing documents including, but not limited to, Annual Assessments and Special Assessments (as that term is defined herein).

Section 6. **"ASSOCIATION"** shall mean and refer to The Cottages at Legacy Creek Homeowners Association, Inc.

Section 7. **"BOARD"** shall mean the duly elected Board of Directors of the Association.

Section 8. **"BYLAWS"** shall mean the Bylaws of the Association, as such may be amended from time to time.

Section 9. **"COMMUNITY AREAS"** shall mean and refer to that certain real property legally described or depicted on Exhibit C attached hereto and incorporated herein and shall include all improvements located thereon including, but not limited to, entrance monuments, landscaping, trails and lighting and irrigation systems, if any.

Section 10. **"DECLARANT"** shall mean and refer to Mainland Development LLC its successors and assigns, if such successors and assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

Section 11. **"DECLARATION"** shall mean this document and all amendments or supplements thereto.

Section 12. **"IMPROVEMENT"** shall mean and refer to all structures or improvements of any kind located on the Property, the Community Areas and/or the Maintenance Areas, or on or under any lake or wetland bordering the Property, including without limitation any building, wall, fence, sign, swimming pool, spa, patio, tennis court, swimming platform, screen enclosure or screening, utilities

system, communications system, security system, driveway, roadway, decorative structure, planting, landscaping, grading, or any other type of structure or physical improvement, whether the purpose is decorative or otherwise, and any additions or changes thereto.

Section 13. **"LOT"** or **"LOTS"** shall mean and refer to any plot of land shown on the Plat of Subdivision (as that term is defined herein) and defined as Property herein, upon which one single family dwelling unit is constructed or is to be constructed.

Section 14. **"MAINTENANCE AREAS"** shall mean and refer to that certain real property legally described or depicted on Exhibit D attached hereto and incorporated herein and shall include all improvements located thereon including, but not limited to, entrance monuments, landscaping, trails and lighting and irrigation systems, if any.

Section 15. **"MEMBER"** or **"MEMBERSHIP"** shall mean all persons who are Members of the Association by virtue of being an Owner. The words "Owner" and "Member" may be used interchangeably in the governing documents.

Section 16. **"OCCUPANT"** shall mean and refer to every person or entity who occupies a Residence (as that term is defined herein), including, but not limited to, an Owner, tenant or guest of an Owner.

Section 17. **"OWNER"** shall mean and refer to the record owner, whether one or more persons or entities, of a legal or equitable interest in any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation, including contract vendors, unless the contract for deed provides otherwise.

Section 18. **"PLAT OF SUBDIVISION"** shall mean the plat of Legacy Creek or any part thereof, subdividing or resubdividing the same into Lots, and recorded in Anoka County, Minnesota.

Section 19. **"PROPERTY"** OR **"PROPERTIES"** shall mean and refer to that certain real property described or depicted on Exhibit A and any Additional Property added thereto pursuant to Article VII hereof.

Section 20. **"RESIDENCE"** or **"RESIDENCES"** shall mean the Improvement(s) constructed on Lots.

Section 21. **"SPECIAL ASSESSMENT"** shall mean and refer to an Assessment levied against all the Lots in accordance with Article IV hereof.

## **ARTICLE II USE RESTRICTIONS**

Section 1. **Residential Use.** The Property is hereby restricted to residential dwellings, and ancillary and accessory uses and buildings in connection therewith (except for model homes and sales offices which may be operated by Declarant or its designees during the construction or sales period). All buildings or structures erected on the Property shall be of new construction and no buildings or structures shall be moved from other locations to the Property. No building or structure of a temporary character

including, but not limited to, a trailer, tent, shack, garage, barn, mobile home or other outbuilding, shall be placed on or used on any Lot at any time as a Residence either temporarily or permanently.

Section 2. **Improvements.** An Owner or Occupant may not make Improvements to any Residence without all Improvements complying with all state, county and city laws, codes and/or ordinances, as well as this Declaration, in effect at the time such Improvements are made. Any such Improvements must meet with the approval of the A.R.C. The A.R.C. has the authority to determine in its sole discretion, whether such Improvements meet the A.R.C.'s architectural standards, as described herein.

Section 3. **Animals.** No animals shall be kept on the Property by any Owner or Occupant, except conventional domesticated animals kept as pets. An Owner or Occupant shall not keep more than two (2) dogs, cats or other household pets, or any combination thereof, at any one time. Any dog, cat, or other household pet, whenever outside of a Residence, shall be kept under the direct control of the pet owner or another person able to control the pet. The person in charge of the pet must clean up after it. No kennel(s) of any kind, whether temporary or permanent, shall be placed on or used on any Lot at any time without the express approval of the A.R.C.

Section 4. **Commercial Activities, Signs, Nuisances.** No advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Lot, except that one (1) "for sale" sign of not more than five (5) square feet shall be allowed. A permitted sign may not be of a post style design, nor shall any holes be dug to support it. No Lot shall be used in any way or for any purpose, which may endanger the health or unreasonably disturb the residents of the Association. No commercial activities of any kind, including a daycare business, shall be conducted in or on any Lot, Residence, building or on any portion of the Community Areas, except activities intended primarily to service residents in the Community Areas. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its designees during the construction or sales period, or by the Association in furtherance of its powers and purposes set forth in the Bylaws and Declaration, as the same may be amended from time to time.

Section 5. **Screening, Trash Removal.** All woodpiles shall be screened by adequate planting so as to conceal them from view of neighboring Residences and streets. All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. There shall be no trash piles or storage piles on any Lot. Any and all trash removal equipment must be stored inside a garage at all times. The foregoing restrictions shall not apply to the activities of Declarant, its designees and those working for or on behalf of Declarant during the construction or sales period.

Section 6. **Derricks, Wells, etc.** No derrick or other structure or instrument designed for use in boring, mining, or quarrying for oil or natural gas, precious minerals, or any personal water well shall be erected, maintained or permitted upon the Property, provided that nothing in this Declaration shall be construed to restrict a public utility from erecting, maintaining, and operating upon any Lot owned by it, a well, housing, and equipment for the purpose of extracting from the sub-surface and/or the treatment, storage and distribution of water through the system of such public utility.

Section 7. **Offensive Activities.** No noxious or offensive activities shall be conducted on the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners or to Declarant.

Section 8. **Exterior Antenna.** No exterior tower or antenna of any kind shall be constructed, maintained or permitted to remain on any Lot or Residence, with the exception of one (1) satellite dish per Lot or Residence, which satellite dish can be no more than eighteen inches (18") in diameter and shall not be visible from the street directly parallel to the front facade.

Section 9. **Parking - Motor Vehicles, Boats, Trailers, Etc.** No boats, golf carts, snowmobiles, trailers, camping vehicles, buses, tractor trailers, trucks (except those trucks which are less than 9000 pounds gross weight), unlicensed or inoperable vehicles, or other motorized vehicles or equipment shall at any time be stored or parked on any Lot outside of a garage. Temporary storage or such vehicles or equipment is not permitted. The use of garages, driveways, and other parking areas the Property shall be subject to regulation by the Association, including, without limitation, the right to tow illegally parked vehicles or equipment at the Owner's expense.

Section 10. **Alterations/Remodeling.** Once the initial Certificate of Occupancy is issued for the original dwelling unit, no future expansion, exterior remodeling, exterior improvements, exterior alterations, change of exterior paint color or any substantial landscape alterations or additions shall be commenced, constructed, performed, placed or done on any Lot or Residence unless all such improvements, alterations or changes are approved by the A.R.C. as provided herein.

Section 11. **Maintenance of Drainage and Utility.** Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of said Lots are reserved as shown on the plat. Within these easements, no structure, planting, retaining walls or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, a private or public utility company is required to maintain.

Section 12. **Homeowners Association.** An Owner shall, by virtue of such interest, be a Member of the Association. Membership in the Association shall be appurtenant to, and shall not be separated from, ownership of a Lot. A person shall cease to be a Member of the Association at such time as he or she ceases to be an Owner. The Owner's share of any funds and assets of the Association cannot be assigned, pledged, encumbered or transferred in any manner, except as an appurtenance to such Lot ownership. The Owner shall pay, from time to time as determined by the Association, their proportionate share of any dues, Assessments, including Special Assessments, or other expenses incurred as a result of the Association's operation and maintenance of the Property. Ownership of a Lot shall be the sole qualification for Membership in the Association.

Section 13. **Community Areas.** Declarant shall convey the Community Areas, legally described or depicted on Exhibit B attached hereto, to the Association for the use and enjoyment of all Owners and The Association shall, among other things, be responsible to oversee the operation and maintenance of the Community Areas, including any fixtures attached thereto.

Section 14. **Fences.** There shall be no fence, temporary or permanent, constructed or placed on any Lot, except as approved by the A.R.C. The A.R.C. shall have the sole authority to establish reasonable criteria and requirements for approval of any fences and shall be the sole judges of whether the criteria are satisfied. Generally 4' black aluminum fencing shall be considered the neighborhood "typical". In no event shall any privacy fences be permitted on any Lot.

Section 15. **Exterior Facilities.** No playground equipment, storage buildings, sheds, basketball hoops, temporary or permanent, or any structure of a temporary nature shall be erected or utilized on a Lot or Residence without prior approval of the A.R.C.

Section 16. **Outdoor Swimming Pools-** outdoor pools shall not be installed, built or utilized on a Lot or Residence without prior approval of the A.R.C. Without limitation above ground pools will not be approved by the A.R.C. Should an in-ground pool be approved Declarant represents that soils located outside the building pad and generally throughout the rear, side and front yard have not been corrected to accommodate general building construction for pools and additional effort may be required, by the homeowner, to stabilize these soils before construction could occur.

### **ARTICLE III ARCHITECTURAL STANDARDS**

Section 1. **General.** It is the intent of Declarant to create a general plan and uniform scheme of development of the Property and to create within the Property a residential community of high quality and harmonious Improvements. Accordingly, an Architectural Review Committee (the "A.R.C.") shall be established as a permanent committee of the Association to oversee, review and regulate all architectural and design matters involving the Property. The A.R.C. shall have the following general powers:

- (i) The A.R.C. shall have the exclusive right to approve or disapprove the size, exterior design, color, materials, landscaping and location of all improvements on each lot.
- (ii) The A.R.C. may, in its sole discretion, impose standards for design, which may be greater or more stringent than standards prescribed in applicable building, zoning, or other governmental laws, ordinances, codes, or regulations; provided that such standards shall be consistent with the architectural character and use of the Property as planned and developed by Declarant. The primary procedures and regulations governing the A.R.C. are set forth in this Article II.

Section 2. **Architectural Review Committee.** The A.R.C. shall be a permanent committee of the Association, and shall administer and perform the architectural and landscape review and control functions of the Association. The Board shall (i) determine how many persons shall serve on the A.R.C. (which shall be no fewer than three (3) nor more than seven (7) natural persons); (ii) appoint the members of the A.R.C. ; (iii) set reasonable terms of office for the members of the A.R.C. ; and (iv) determine which member of the A.R.C. shall serve as its chair. A majority of the A.R.C. shall constitute a quorum and constitute the action of the A.R.C.

Section 3. **Application and Approval Required.** No Improvement shall be constructed, erected, removed, planted or maintained, nor shall any addition to or any change, replacement or

alteration thereof be made, until plans and specifications showing the nature of the Improvements shall have been submitted to and approved in writing by the A.R.C. Approval shall be requested by written application on such forms as may be required by the A.R.C. The A.R.C. may require submission of samples of building materials and colors proposed to be used. All applications made to the A.R.C. shall be made simultaneously to the appropriate official of any governmental authority having jurisdiction over the subject of the application. All construction shall be done by contractors approved in writing by the A.R.C. If the information submitted to the A.R.C. is incomplete or insufficient in any manner the A.R.C. may require the submission of additional information.

Section 4. **Approval Standards.** The A.R.C. shall have the right to refuse to approve any plans and specifications, which are not suitable or desirable, in its sole and absolute discretion. In approving or disapproving such plans and applications, the A.R.C. shall consider, at a minimum, the following criteria:

- (i) Substantial uniformity of color, size, location, type and design;
- (ii) Comparable or better quality of materials or other Improvements on the Property;
- (iii) Ease of maintenance and repair;
- (iv) Adequate protection of the Property, the Association, Owners and Occupants, and the Declarant from liability and liens arising out of the proposed Improvements;
- (v) Substantial preservation of other Owners' sight lines, if material;
- (vi) Compliance with governmental laws, codes, ordinances and regulations; and
- (vii) Preservation of existing trees and vegetation, and the lakes and wetlands located on or adjacent to the Property.

Section 5. **Notice of Decision.** The A.R.C. shall approve or disapprove the application and notify the applicant of its decision in writing within forty-five (45) days following the receipt of the application and all related information. Failure to respond within 45 day timeline does not constitute approval. The notice shall set forth the approval or denial of the application, or any qualifications or conditions of approval. If the A.R.C. disapproves the application, it shall state the grounds upon which the disapproval is based. Any applicant may appeal the decision of the A.R.C. to the Board within thirty (30) days of the A.R.C.'s decision. The Board shall make its determination and notify the applicant within thirty (30) days of receipt of the appeal. The determination of the Board shall be final and binding upon the applicant; provided, that no Improvement shall be erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration, or which violates any governmental law, zoning or building ordinance, or regulation.

Section 6. **Variances.** The A.R.C. may, in its sole discretion, grant variances from the requirements contained herein or as elsewhere promulgated by the A.R.C., on a case by case basis; provided, that the variance sought (i) involves unique circumstances; (ii) is reasonable; (iii) does not impose a hardship upon other Owners and Occupants; and (iv) does not violate any governmental law, ordinance, code or regulation. The granting of such a variance by the A.R.C. shall not nullify or otherwise affect the A.R.C.'s right to require strict compliance with its requirements on any other occasion.

Section 7. **Completion Schedule.** Construction of all Improvements for which the approval of the A.R.C. is required under this Declaration shall be completed within the time period specified by the A.R.C.

Section 8. **Inspection and Remedies.** The A.R.C., and any agent or member of the A.R.C., has the right of entry and inspection on the lot and may request access to the interior, which shall not be unreasonably withheld, for the purpose of determining whether there is compliance with the applicable architectural standards. If any person fails to comply with the requirements of the Declaration or the standards promulgated by the A.R.C., the violator shall pay all costs in connection with the resolution or correction of the violation, including without limitation any fees of attorneys or other professionals incurred by the Association. The A.R.C. may, in addition to its other remedies, record against the Lot with respect to which the violation has occurred, in the public records of the county, a Certificate of Noncompliance stating that the Improvements fail to meet applicable architectural standards.

Section 10. **Declarant Exemption.** Notwithstanding anything contained herein to the contrary, any Improvements of any nature at any time made or approved by the Declarant, including without limitation, Improvements made or to be made to the Community Areas, Maintenance Areas or the Property, shall not be subject to the review or other procedures of the A.R.C., but such Improvements shall comply with the plan of development for the Property.

Section 11. **Protection from Liability.** Neither Declarant, the Association and its directors or officers, the members of the A.R.C., nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any person due to any alleged mistakes in judgment, negligence or any action of the A.R.C. in connection with the approval or disapproval of plans and specifications. The Association shall indemnify, defend and hold harmless the A.R.C. and each of its members from all costs, expenses and liabilities, including attorney's fees, of all nature resulting by virtue of the acts of the A.R.C. or its members.

Section 12. **No Representation of Compliance.** No approval of plans and specifications and no publication of standards by the A.R.C. shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed Improvements. Such approvals and standards shall not be construed as representing or guaranteeing that any Improvement built in accordance therewith was built in a good and workmanlike manner. Neither Declarant, the Association, nor the A.R.C. shall be responsible or liable for any defects in any plans or specifications submitted or approved; any loss or damage to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations or any defects in construction undertaken pursuant to such plans and specifications.

Section 13. **Additional Standards.** The A.R.C. is authorized to promulgate from time to time additional written architectural standards, guidelines and other regulations governing the construction, location, landscaping and design of Improvements, the contents of plans and specifications, and other information required to evidence compliance with this Article III. Any such publications by the A.R.C. shall be binding and enforceable against all persons with the respect to all Improvements subject to approval by the A.R.C.

## ARTICLE IV ASSESSMENTS

Section 1. **Personal Obligation.** For each Lot owned within the Property, the Owner hereby covenants, and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, shall be and is deemed to covenant and hereby agrees to pay to the Association Assessments or charges for the maintenance and operation, as well as the construction, maintenance and repair of Improvements located on the Property, the Community Areas and the Maintenance Areas, which Assessments shall be established and collected as hereinafter provided. Any Assessments authorized herein, together with interest, costs and reasonable attorney's fees, shall be a continuing lien against the Lot assessed from the date payable. Each Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date said Assessment became due and payable. Said personal obligation of an Owner shall not pass to his or her successors in title or interest unless expressly assumed by them. No Owner shall escape liability for the Assessments, which fell due while he or she was the Owner by reason of non-use of the Community Areas or non-use, transfer or abandonment of his or her Lot or the right of possession thereof.

Section 2. **Annual Assessment.** Annual Assessments shall be established and levied by the Board, subject only to the limitations set forth in this Article IV. Each Annual Assessment shall cover all of the anticipated expenses for the Community Areas and the Maintenance Areas. Annual Assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of all improvements located with the Community Areas and the Maintenance Areas.

Section 3. **Date of Commencement of Annual Assessments.** The Annual Assessments shall commence on the day of conveyance of the first Lot and shall be prorated for the year of said conveyance. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Assessment period. Should the Board fail to so fix such amount, the amount of the prior year's Annual Assessment shall be the fixed amount. Written notice of any changed amount of the Annual Assessment shall be sent to every Owner subject thereto. The due dates when said Annual Assessments are due and payable shall be established by the Board.

Section 4. **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the welfare of the Owners and Occupants, and to manage, improve, maintain, repair, construct or administer improvements within the Property, the Community Areas and the Maintenance Areas.

Section 5. **Special Assessments.** The Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair or replacement of the Improvements, including capital improvements, fixtures and personal property related thereto, provided that any such Assessment.

Section 6. **Rate of Assessment.** Assessments, except those Special Assessments provided for in Article III, Section 10 and Article V, Section 2, must be fixed at the same amount for each Lot.

Section 7. **Proof of Payment.** Upon written demand of an Owner at any time, the Association shall furnish each Owner a written certificate signed by an officer of the Association setting forth whether there are any then unpaid Assessments levied against such Member's Lot. Such certificate shall be conclusive evidence of payment of any Assessments not stated therein as unpaid.

Section 8. **Nonpayment of Assessments.** Any Assessments which are not paid when due shall be deemed delinquent. If an Assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate of eight percent (8%) per annum and shall become a continuing lien in favor of the Association on the Lot against which assessed and the Association may bring an action at law or in equity against the person personally obligated to pay the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such Assessment and included in any judgment rendered in such action, and the Association may also enforce and foreclose any lien it has or which may exist for its benefit.

Section 9. **Recording and Enforcement of Liens.** To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same, and a description of the Lot. Such a notice shall be signed by an officer of the Association and may be recorded in the office of the Registrar of Titles for Anoka County, Minnesota. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment for thirty (30) days. Such lien may be enforced either by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Minnesota or by foreclosing the lien in the manner prescribed by Minnesota Statutes for the foreclosure of a mechanic's lien. In any such foreclosure, the person personally obligated to pay the lien shall be required to pay all costs of the foreclosure including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The person personally obligated to pay the lien shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the Lot as the Owner thereof. The Association shall, upon written request by an Owner, report any encumbrance on a Lot or any Assessments remaining unpaid for longer than thirty (30) days after the same shall have become due.

Section 10. **Subordination of Lien.** The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage and to tax liens and liens for special governmental assessments. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer or acquisition of possession of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer or acquisition of possession. No such sale or transfer or acquisition of possession shall relieve the person personally obligated to pay the lien of personal liability for the Assessment due prior to such sale or transfer or acquisition of the Lot.

**ARTICLE V  
MUNICIPAL ORDINANCES**

Section 1. **Conflict.** None of the covenants, conditions, restrictions or provisions of the Declaration are intended to supersede or prevail over the ordinances of general applicability of the City of Blaine, and in the event of any conflict, the applicable ordinances of said City shall supersede and prevail over the covenants, conditions, restrictions and provisions of this Declaration.

**ARTICLE VI  
GENERAL PROVISIONS**

Section 1. **Enforcement.** The Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions restrictions, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Declarant or by any Owner to enforce any covenants, conditions restrictions, liens and charges herein contained shall in no event be deemed a waiver of the right to do so thereafter. Breach of any of the covenants, conditions restrictions, liens and charges shall not defeat or render invalid the lien of any mortgage, contract for deed, or trust deed made in good faith and for value as to said Lots or Property, or any parts thereof, but such covenants, conditions restrictions, liens and charges shall be binding and effective against any Owner of said Lot whose title thereto is acquired by foreclosure, contract for deed cancellation, trustee's sale or otherwise.

Section 2. **Severability.** Invalidation of any one or more of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions that remain in full force and effect.

Section 3. **Amendment.** The covenants, conditions and restrictions created by this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns for a period of twenty (20) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years unless the express written consent of all Owners subject to this Declaration is obtained in a proposed amendment or modification to this Declaration, in which case said amendment or modification will control.

Section 4. **Dissolution of the Association.** Upon dissolution of the Association, all assets of the Association shall be distributed equally among the Owners such that the Owner(s) of an individual Lot shall be entitled to one share of the total assets.

**ARTICLE VII  
FLEXIBLE COMMUNITY**

Section 1. **Option of Declarant to Add Additional Property.** Declarant hereby expressly reserves an option to add the Additional Property to the Property by unilateral action. The option to add the Additional Property will lapse ten (10) years after the date on which this Declaration is recorded. Said time period may be extended by an amendment to the Declaration approved in writing by the Declarant and by vote or written agreement of Owners other than the Declarant or its affiliate, to whose Lots are allocated at least sixty-seven percent (67%) of the votes of the Association. There are no circumstances that will terminate the option prior to the expiration of such ten (10) year period. Except as otherwise provided in this Section, there shall be no other restriction on the option to add the Additional Property to the Property. The legal description of each portion of the Additional Property is set forth in Exhibit B attached hereto and incorporated herein.

Section 2. **Manner of Adding Additional Property.** The Additional Property shall be added by Amendment to this Declaration. The Additional Property may be added to the Property as a whole or in phases. No assurances are made by the Declarant with respect to the order in which parcels may be added, the number of parcels per phase or the size of the parcels. Declarant is under no obligation to add the Additional Property to the Property, and the Additional Property may be developed by Declarant or its successor in interest for other purposes, subject only to approval by the appropriate governmental authorities.

Section 3. **Type of Construction.** All or any portion of buildings or dwellings which may be constructed upon any portion of the Additional Property will be similar to and compatible with the other buildings and dwellings on the Property in terms of architectural style, floor plan, quality of construction, principal materials employed in construction, and size, except that the Declarant reserves the right to employ different materials and design as may be required by law or as may economically facilitate construction without substantially reducing the value of existing buildings and dwellings or increasing Assessments for existing Owners. All other improvements that may be made or created upon or within the Additional Property or each portion thereof shall be similar to those existing on the Property, except that they may, but need not, include roadways and additional recreational or other facilities.

Section 4. **Application of Declaration.** All restrictions in the Declaration affecting use, occupancy and alienation of Lots will apply to Lots created in the Additional Property. In the event that the Additional Property or any portion thereof is not added to the Property, the Additional Property shall in no way be affected by or subject to the terms of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this Declaration on the date first written above.