

DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

THIS DECLARATION, Made this 2nd day of December, 1971,
by Contemporary Development, Inc, a Minnesota corporation,
hereinafter called "Developer."

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration, and desires to create thereon a residential community with recreation areas, playgrounds, open spaces and other common facilities for the pleasure, recreation and general benefit of said community, and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said recreation areas, playgrounds, open spaces and other common facilities and to this end desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, and

WHEREAS, Developer has deemed it desirable for the pleasure and recreation of the community and for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the power to attend to and effectuate programs and facilities that will enhance the pleasure and recreation of the community, maintain and administer the community properties and facilities and administer and enforce the covenants and restrictions and collect and disburse the assessments and charges hereinafter created, and

WHEREAS, Developer has incorporated under the laws of the State of Minnesota, the Engelhaven Community Association for the purpose of exercising the functions aforesaid.

NOW THEREFORE, the Developer declares that the real property described in Article II shall be held, transferred, sold, conveyed and occupied, subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. The following words, when used in this declaration (unless the context shall prohibit) shall have the following meanings:

a. "Association" shall mean and refer to Engelhaven Community Association.

b. "Engelhaven" shall mean and refer to all existing properties subject to this Declaration and such additions thereto as may hereafter be owned by plat duly filed and of record in the office of the Register of Deeds in and for the County of Scott, State of Minnesota.

c. "Common Properties" shall mean and refer to those areas of land shown on the recorded plat of Engelhaven and intended to be devoted to the common use and enjoyment of the owners of Engelhaven. The Common Properties within the Existing Property of this Declaration, as defined below, are as follows:

Outlots: A, B, D, E, F, G, H, I, J, K and L.

d. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of Engelhaven with the exception of Common Properties as heretofore defined.

e. "Living Unit" shall mean and refer to any portion of a building situated upon Engelhaven designated and intended for use and occupancy as a residence by a single family.

f. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon Engelhaven, but notwithstanding any applicable theory of a mortgage shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

g. "Member" shall mean and refer to all owners who are members of the Association as provided in Article III, Section 1 hereof.

h. "Developer" shall mean and refer to Contemporary Development, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this declaration is located in the County of Scott and State of Minnesota, and is more particularly described as follows:

Lots 1 through 10, Block 1; Lots 1 through 5, Block 2; Lots 1 through 5, Block 3; Lots 1 through 10, Block 4; Lots 1 through 3, Block 5; Lots 1 through 8, Block 6; Lots 1 through 2, Block 7, Engelhaven, County of Scott, State of Minnesota

all of which real property shall hereinafter be referred to as "Existing Property."

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS
IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contracts vendees, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership for each lot in which he holds an ownership interest. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Section 2. Voting Rights. The Engelhaven Homeowners Association shall have one class of voting membership:

Class A. Members shall be all those Owners as defined in Section 1. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members Easement of Enjoyment. Subject to the provisions of Section 3, every Member shall have the right and easement of ingress and egress and of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Properties. The Developer may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same but, notwithstanding any provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey the Common Properties to the Association not later than one year following the date of filing of this plat.

Section 3. Extent of Members Easements. The rights and easements created hereby and the title of the Association to the Common Properties shall be subject to the following:

a. The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties, and in aid thereof to mortgage said Properties; subject to prior consent of the local governing authority, and the rights of such mortgagee in said Properties shall be subordinate to the rights of the Members hereunder; and

b. The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

c. The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and to suspend the said enjoyment rights for any period not to exceed thirty (30) days and to impose a fine not to exceed Ten Dollars (\$10.00) for each infraction of its published rules and regulations, each day during which such infraction exists being deemed a separate and distinct infraction; provided, however, that nothing contained in this paragraph 3c shall be deemed to deny an Owner access to and from his Lot located in Engelhaven.

d. The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

e. The right of individual Members to the use of parking spaces as provided in Article V hereof; and

f. The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof shall be effective unless an instrument signed by Members entitled to cast three-fourths (3/4) of the votes of each class of membership has been recorded agreeing to such dedication, transfer, purpose or condition, and unless written notices of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken; and unless the prior consent of the local governing unit has been secured for such a disposition.

Section 4. Taxes and Special Assessments on Common Properties. Taxes and special assessments that would normally be levied against the Common Properties shall be divided and levied in equal amounts against the individual Lots occupied or to be occupied by buildings, which levies shall be a lien against said individual Lots.

ARTICLE V
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation

of Assessments. The Developer for each Lot owned by him within Engelhaven hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be and hereby is deemed to covenant and agree to pay to the Association (a) annual assessments or charges and (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on each such Lot and shall be a continuing lien on each such Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of each such Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the pleasure, recreation, health, safety and welfare of the residents in Engelhaven and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes in Engelhaven including but not limited to: the payment of taxes, governmental assessments, insurance, water charges, repair, replacement and additions, and for the cost of labor, equipment, materials, management and supervision.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January 1, 1973, the annual assessment shall be Twenty-four dollars (\$24.00) per Lot payable as hereinafter provided. From and after the year beginning January 1, 1973, the annual assessment may be increased by vote of the Members as hereinafter provided for the next succeeding one (1) year and at the end of such period of one (1) year for each succeeding period of one (1) year. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association fix the actual assessment for any year at a lesser amount, provided that the annual assessment is not less than twenty-four (24) dollars. The annual assessment for each Lot owned by the Developer, undeveloped or

containing an unoccupied living unit shall be only twenty-four (24) dollars.

Section 4 Special Assessments for Capital Improvements.

In addition to the annual assessments authorized by Section 3 hereof, 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments.

Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of two-thirds (2/3) of the vote of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its By-Laws.

Section 6. Quorum for any Action Authorized Under Sections

4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirements set forth in Section 4 and 5 and the required quorum at such subsequent meetings shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments:

Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association .

The first annual assessment shall be made for the balance of the calendar year 1972 and shall become due and payable rateably on the first day of each month commencing on the date fixed for commencement as hereinbefore provided. The assessments for any year after the first year shall become due and payable rateably on the first day of each month of said year; except that the due date of any special assessment under Section 4 shall be fixed in the resolution authorizing such assessment.

The amount of annual assessments which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at such time other than the beginning of any annual assessment period.

Section 8. _____ Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement, and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall at that time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner or prospective Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid and the amount of any unpaid assessment. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid and of the amount of any unpaid assessment.

Section 9. Effect of Non-Payment of Assessment: The Personal obligation of the Owner; Lien; Remedies of Association. If the assessments are not paid on the date when due (being the date specified in Section 7 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien of the property which shall bind such properties in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight per cent (8%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property by suit in the manner provided for mechanic's liens, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

Section 10 Subordination of lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon a Lot subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a vesting of fee title in the purchaser pursuant to a mortgage foreclosure sale by advertisement or action, or any other proceed-

ing in lieu of foreclosure. Upon the expiration of the period of redemption from a mortgage foreclosure sale the interest of the holder of the Sheriff's Certificate shall be prior and superior to the lien of any assessments then against the Lot or Lots. Such sale or transfer shall not release a Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

a. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

b. All properties exempted from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemption;

c. All Common Properties as defined in Article I, Section 1, hereof.

Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI ENVIRONMENTAL CONTROL COMMITTEE

Section 1. Review by Committee. From and after the completion of construction and sale of each Lot or Living Unit within Engelhaven, no sanitary waste system or any building, fence, wall or other structure shall be commenced, erected or maintained upon such Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structures, topography and environment by the Board of Directors of the Association or by an Environmental Control Committee composed of three or more representatives appointed by the Board. From and after the completion of construction and sale of each lot and living unit within Engelhaven, no trees or natural vegetation shall be removed except with written approval of the Board of Directors of the Association or by the Environmental Control Committee. In the event said Board or its designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it or in any event if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article shall be deemed to have been fully complied with.

Section 2 Consent of the local governing authority. No modifications affecting the bulk of any of the buildings shall be made without prior consent of the local governing authority.

Section 3 Building Permits. From and after the completion of construction and sale of each lot or living unit within Engelhaven, all applications for building permits shall be made through the Association.

ARTICLE VII EASEMENTS

Section 1. Extent of Association Easements. The rights and easements of enjoyment by the Owner of each Lot and the title of such Lot in said Lot shall be subject to the rights of the Association to an exclusive easement on and over said Lot for the purpose of installation and

maintenance of necessary utilities to serve the Common Properties.

ARTICLE VIII
ADDITIONAL RESTRICTIONS AS TO LOTS
ENGELHAVEN

Section 1. Additional Restrictions. In addition to the covenants and restrictions set forth above, the Developer declares that the property described in Section 2 of this Article VIII only, shall be subject to additional covenants and restrictions, which shall run with the land described below and bind the Developer and all subsequent purchasers, and their heirs, executors, administrators, successors or assigns.

a. No continuance fence, wall, or shrubbery may be erected, placed, or maintained in the area described in Section 2 below; provided, however, that this restriction shall not apply to vegetation existing as of the date of this Declaration, nor shall this restriction prohibit the future planting, at random, of deciduous or evergreen trees or shrubs.

b. The restrictions in paragraph a, above, shall terminate and be of no force and effect after a period of twenty (20) years from the date hereof; unless 75% of the property owners, per capita, described in Section 2, below, by instrument duly signed and recorded, consent to an extension of said restrictions. No extension of the restrictions created in paragraph a. above shall be for a period in excess of ten (10) years.

c. The restrictions created in paragraphs a. and b. above shall be for the sole and exclusive benefit of, and enforceable by, the property owners located in the area described in Section 2 below.

Section 2. Property Subject to Additional Restrictions. The property which shall be subject to the additional restrictions imposed in paragraphs a, b, and c of Section 1 of this Article IX is located in the County of Scott, and is more particularly described as follows:

Lots 1 through 10, Block 1; Lots 1 through 5, Block 2; Lots 1 through 5, Block 3; Lots 1 through 10, Block 4; Lots 1 through 3, Block 5; Lots 1 through 8, Block 5; Lots 1 through 2, Block 7, Engelhaven Subdivision, County of Scott, State of Minnesota.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Duration. The covenants, restrictions and easements of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of this Declaration is recorded, after which time said covenants, restrictions and easements shall be automatically renewed for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than 90% of the Lot Owners and thereafter by an instrument signed by not less than 75% of Lot Owners.

Any amendment must be approved by the Planning Commission of the local governing authority and must be properly recorded.

Section 2 Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or compel compliance, or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a Waiver of the right to do so thereafter. Attorney's fees and costs of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any person violating the terms contained herein.

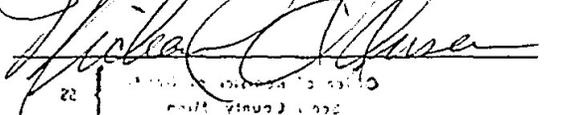
Section 4 Mergers. Upon a merger or consolidation of the Association with another corporation as provided in its By-Laws its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation or alternatively the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration within the Existing Property, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or additions to the covenants established by this Declaration within the Existing Property, except as hereinabove provided.

Section 5 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 6 In the event that the Association fails to elect a Board of Directors or the Board of Directors fails to enforce the provisions of conditions and declarations herein contained, the local governing agency shall act as a Board of Directors of the Association until such time as a Board of Directors is elected and duly certified or until the Board of Directors does enforce the conditions and declarations herein contained.

IN WITNESS WHEREOF, the undersigned has hereunto set its bond and seal as of the day and year first above written

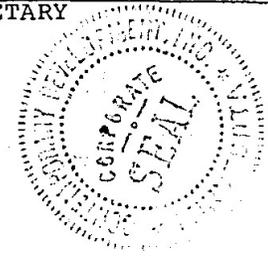
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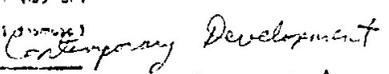


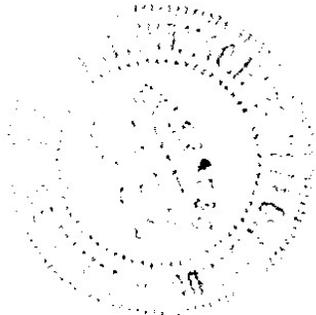
CONTEMPORARY DEVELOPMENT, INC.
By 
ITS PRESIDENT

By 
ITS SECRETARY

This instrument was
Drafted by
NYQUIST, TUZINSKI AND JONES
5901 Brooklyn Blvd.
Brooklyn Center, Minnesota 55429




5901 Brooklyn Blvd.
Brooklyn Center, Minn 55429
900 B



Office of Registrar of Deeds } ss
Scott County, Minn.

I hereby certify that the within instrument
was filed in this office for record on
the 16 day of Dec
A.D. 1921 at 2:30 o'clock P.M.

and duly recorded as 129372
Document No.

Paul W. Wenzel
Registrar of Deeds

By _____ Deputy