

**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS DECLARATION made this 24th day of September, 1987, by ALBERTVILLE INDUSTRIAL DEVELOPMENT CO., a Minnesota general partnership, and hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant Albertville Industrial Development Co. is the owner of certain real property known as Summit Oaks, located in the City of Burnsville, Dakota County, Minnesota, all of said property together being particularly described as follows:

All Lots and Blocks in Summit Oaks First, except outlots, hereinafter referred to as "Summit Oaks"; and

WHEREAS, Declarant desires to create a community of compatible and complementary single family residential homes for the benefit of the residents of Summit Oaks and to protect the value and desirability of Summit Oaks; and

WHEREAS, Declarant has deemed it desirable for the preservation of Summit Oaks and for the assurance of consistent quality and architectural design to establish certain restrictions and covenants as to how Summit Oaks may be developed; and

WHEREAS, Declarant intends that certain of the following covenants and restrictions are to be administered and enforced by Declarant and the Summit Oaks Homeowners Association established for Summit Oaks for the purposes expressed in the Articles of Incorporation for Summit Oaks Homeowners Association;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above, known as Summit Oaks, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association, shall be held, sold, and conveyed subject to the following restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**DEFINITIONS**

**1.1 Definitions.** The following terms, when used in this Declaration, shall have the following definitions, except as otherwise specifically provided:

**1.2 "Association"** shall mean and refer to Summit Oaks Homeowners Association.

**1.3 "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot subject to the Declaration, but shall not mean or refer to the Present Property Owners hereinafter defined nor to the mortgagee of any such Lot unless and until such mortgagee has acquired title pursuant to foreclosure of said mortgage and the period within which the fee owner may redeem from such foreclosure has terminated. Where any such Lot is being sold by the fee owner to a contract vendee who is entitled to possession of the Lot, the contract vendee shall be considered the "Owner" of the Lot upon furnishing adequate proof to the Association.

**1.4 "Present Property Owner"** shall mean and refer to Declarant.

**1.5 "Properties"** shall mean and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration and of the Association.

**1.6 "Common Property"** shall mean and refer to that certain real property, including all improvements and structures constructed or to be constructed thereon, described in this Declaration owned or to be owned by the Association, and such additions thereto (by way of easement or other grant from Declarant or others) as have or may be granted to the Association, all for the common use, benefit, enjoyment and maintenance of the owners.

**1.7 "Lot"** shall mean and refer to any individual parcel of land shown upon any recorded plat or subdivision map of the properties whenever such plat or subdivision map, as amended, replatted or further subdivided, shall be made of record.

**1.8 "Declarant"** shall mean and refer to Albertville Industrial Development Co., a Minnesota general partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from Declarant for the purpose of Development.

**1.9 "Member"** shall mean all Owners who are members of the Association as provided in Article V hereof.

**1.10 "Mortgage"** shall mean any mortgage or other security instrument by which a Lot or any part thereof is encumbered.

**1.11 "Mortgagee"** shall mean any person named as the mortgagee under any such mortgage or any successors to the interest of such person under such mortgage.

**1.12 "Living Unit"** shall mean a detached single residential housing unit consisting of a group of rooms and hallways which are designed or intended for use as living quarters for one family.

**1.13 "Summit Oaks First"** shall mean and refer to the real property located in the residential subdivision described above.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

**2.1 Properties.** The real estate which is and shall be held, transferred, sold, conveyed, occupied and used subject to this Declaration is located in the City of Burnsville, County of Dakota, State of Minnesota, and is more particularly described as follows:

All Lots and Blocks of Summit Oaks First, except Outlots, all in Summit Oaks according to the map or plat thereof on file or of record in the Offices of the County Recorder and or Registrar of Titles in and for Dakota County, Minnesota.

**2.2 Common Property.** The Common Property, if any, located in Summit Oaks and described in Exhibit A attached hereto and made a part hereof shall on and after the filing and recording of this Declaration be sold, transferred and conveyed to the Association for the common use, enjoyment and maintenance of the owners in accordance with the Articles of Incorporation and By-Laws of the Association and in accordance with the terms and conditions hereof.

**2.3 Outlots.** The outlots in the aforementioned described properties, when and if platted into Lots in Summit Oaks, or any amended plat or replat or subdivision thereof shall be subject and inure to the benefit of all the terms, conditions, easements, restrictions and covenants herein contained or otherwise incorporated herein by reference.

**2.4 Green Areas.** In addition, the Association shall maintain the green areas (islands) contained in the cul-de-sacs and other areas of right-of-way within Summit Oaks. The Association shall also maintain any outlots and green areas in any additions to Summit Oaks pursuant to Article III below. The Association shall also maintain the retaining wall and green area along 146th Avenue as well as any ponds in the drainage areas located in the plat.

## ARTICLE III

### ADDITIONAL PROPERTY SUBJECT TO THIS DECLARATION

**3.1 Additions to Existing Property.** The Declarant, its successors and assigns, as defined herein shall have the right, without the consent of the members to bring within the scheme of this Declaration the additional real property, or any part thereof, described on Exhibit B attached hereto as well as any real property contiguous thereto and by this reference incorporated herein for all purposes, in future stages of development.

**3.2 Matter of Annexation.** Additions authorized under this Article shall be made by filing an Amendment to the Declaration of Covenants, Conditions and Restrictions with respect to the additional property and, after such filing, such additional property shall be subject to the

covenants and restrictions of this Declaration. Such Amendment to Declaration shall contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and shall not be inconsistent with the scheme of this Declaration. In no event, however, shall such Amendment to Declaration revoke, modify, or add to the covenants established by this Declaration within the existing property.

## ARTICLE IV

### COVENANT FOR MAINTENANCE ASSESSMENTS

**4.1 Creation of the Lien and Personal Obligation of Assessments .** The Declarant, for each Lot owned within the properties, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments or charges, and (2) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors—in—title unless expressly assumed by them but shall continue as a lien on the property.

**4.2 Purpose of Assessments .** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the maintenance, improvement, preservation and protection of the Common Property.

**4.3 Annual Assessment.** Unless otherwise provided herein or in the Articles and By-Laws of the Association, the Board of Directors of the Association shall set the annual assessment to be paid by each Owner.

**4.4 Special Assessments for Capital Improvements .** In addition to the annual assessments authorized above, the Board of Directors of 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, repair or replacement of a capital improvement upon the Common Property, including fixtures, personal property and landscaping 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 special meeting duly called for this purpose.

**4.5 Notice of Meetings .** Written Notice of any meeting called for the purpose of taking any action authorized under 4.4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called the presence 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 present another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**4.6 Uniform Rate of Assessment .** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, except as modified in paragraph 4.7 below regarding the commencement of assessments.

**4.7 Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to all Lots at such time as a house is built on the Lot and the

house is occupied as a residence. Assessments shall be due commencing with the month the house is first occupied as a residence. The first annual assessment shall be adjusted according to the number of months remaining on the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot in advance of each annual assessment period. As otherwise provided for herein, except that the initial annual assessment for each Lot shall be fifty dollars (\$50.00) per lot, which sum shall remain fixed until changed by the Board of Directors of the Association. Written notice of the annual assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**4.8 Effect of Non-Payment of Assessments: Remedies of the Association; The Lien: Personal Obligation of the Owner.**

**(a)** If any assessment is not paid on the date when due then such assessment shall become delinquent and shall, together with such interest thereon at the maximum rate permitted by law, and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien on such Lot or Lots which shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors-in-title unless expressly assumed by them. Such lien shall run in favor of the Association and shall be superior to all other liens and encumbrances on such Lot except for the following:

**(i)** Liens for general real estate taxes and special assessments levied by any governmental authority; and,

**(ii)** The lien of any first mortgage as provided in Section 4.9 hereof.

**(b)** All other lien holders acquiring liens on any Lot after this Declaration shall have been recorded and whose liens shall also have been recorded shall be deemed to consent that their liens shall be and remain inferior to future liens provided for herein whether or not such consent has been expressed in the instruments creating their liens.

**(c)** 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 and a description of the Lot and file or record the same, but such notice of lien shall not be recorded until such assessment has been wholly or partially unpaid for at least thirty (30) days from the due date. Such lien may be enforced and foreclosed 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. Each Owner, by acceptance of a deed for any Lot, does further hereby give full and complete power of sale to the Association and does consent to a foreclosure of the assessment lien by advertisement. In the event of any such foreclosure, and in the further event that the Association shall prevail in any such foreclosure the person personally obligated to pay the same shall be required to pay all costs of foreclosure including, but not limited to, reasonable attorney's fees. All such costs and expenses shall be further secured by the lien foreclosed. The person personally obligated to pay such lien shall also be required to pay 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. A release of the notice of lien shall be executed by an officer of the Association and recorded upon payment of all sums secured by such lien.

**(d)** Any encumbrancer holding a lien on any Lot may pay, but shall not required to pay, any amounts secured by the lien created and authorized by this section and, upon payment of such sums, such encumbrances shall be subrogated to all rights of the Association with respect to such lien, including, but not limited to, priority as to any other lien or interest in such Lot.

**(e)** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at the maximum rate allowed by law. No Owner may waive or otherwise escape personal liability for the assessments provided for herein by abandonment of his Lot by nonuse of the Common Property. A suit to recover a money judgment for such expenses, with costs of collection and interest as provided for herein, shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

**4.9 Subordination of Lien to First Mortgages** . The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to installments which became due prior to the effective date of such sale, transfer or acquisition by the mortgagee to the end that no assessment liability shall accrue to an acquiring mortgagee except with respect to installments of assessments becoming due after possession has passed to such acquiring mortgagee, whether such possession is passed at the termination of any period of redemption or otherwise. No such sale, transfer, or acquisition of possession shall relieve an Owner of a Lot from liability for any assessments thereafter becoming due or from the lien thereof or shall relieve the person personally obligated to pay the assessments which were levied prior to the transfer of such property from the personal obligation to pay the same.

## ARTICLE V

### MEMBERSHIP AND VOTING RIGHTS — ASSOCIATION

**5.1 Ownership.** Each Owner of a Lot which is subject to an assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of such Lot.

**5.2 Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners of one or more Lots, except Declarant. Each class A member shall be entitled to one vote for each Lot owned by him. When more than one person owns 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.

**Class B.** Class B member shall be the Declarant. The Class B member shall be entitled to three votes for each Lot owned by it.

The Class B membership shall cease and be converted to Class A Membership upon completion of the purchase of a Lot from Declarant and construction of a residence thereon, in

which event the owner of such Lot shall be entitled to vote as a Class A member and the Class B member shall no longer be entitled to any vote with respect to that Lot.

## ARTICLE VI

### GENERAL RESTRICTIONS, OBLIGATIONS AND PROPERTY RIGHTS OF OWNERS

**6.1 Living Unit Restrictions.** No living unit shall ever be constructed on the Common Property, and no living unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a living unit or upon a Lot, provided that none of the following activities shall be considered a violation of this covenant:

(a) The maintenance of model homes and sales offices by Declarant or others during the construction and sales periods, which use shall end at such time as Declarant has sold the last lot in Summit Oaks and such additional property as may be brought within the jurisdiction of this Declaration pursuant to Article III.

(b) The maintenance of an office by the Association for purposes authorized by the Association.

**6.2 Owners' Easement of Enjoyment; Common Property.** Every Owner shall have the right and easement of enjoyment, subject to the obligation of maintenance, protection and preservation therewith, in and to the Common Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable charges and other fees for the repair and protection of any improvements situation upon the Common Property;

(b) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against that Owner's Lot remains unpaid;

(c) The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfers shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

**6.3 Obstructions.** There shall be no obstruction of the Common Property, nor shall any Owner be allowed to keep or store anything on any part of the Common Property without the prior written consent of the Association except construction materials and equipment during the construction period or except as specifically provided herein. Nothing shall be altered on, or constructed in, or removed from the Common Property except as authorized and permitted by the Declarant or upon the prior written consent of the Association.

## ARTICLE VII

## **ARCHITECTURAL CONTROL**

**7.1 Review by Declarant.** No building, structure, fence, wall, patio, swimming pool, tennis court or other structure shall be commenced, constructed, altered or maintained upon any Lot, or portion thereof, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications, proposals, site plans, and certificate of survey showing the nature, kind, shape, height, materials, color, surrounding landscaping, and location of the same (hereinafter collectively referred to as "plans") shall have been filed in writing with and have been approved in writing by Declarant. These submitted plans shall contain details of design, elevation, site grade, fencing and location and dimensions of structures, walks and driveways and shall also state the type of construction and materials to be used in construction. Declarant shall not unreasonably withhold approval of any plan submitted pursuant hereto; provided, however, that failure to meet the covenants and restrictions, and conditions contained herein shall be grounds for Declarant's reasonable disapproval of such plans.

Plans approved by Declarant shall permit the Owner of a Lot to construct in accordance with said plans and in conformity with the applicable codes of the City of Burnsville, Minnesota. Tree or dirt removal, excavation or construction shall not be commenced until approval therefore has been received from Declarant in writing, or in the form of an approved signature upon said plans. All buildings, structures, or improvements must be completed within twelve (12) months of the approval of commencement of construction by Declarant; otherwise, all approvals become null and void.

Any deviation in construction on any Lot from approved plans, which in the judgment of Declarant is of substantial detriment to the appearance of the structure or the surrounding area, shall be corrected to conform to the approved plans at the expense of the Owner of that Lot.

Material specifications: Siding shall be natural woods only such as cedar or redwood with use of brick, stone, or stucco also allowed. Lot 15, Block 2, Summit Oaks is excepted from this requirement in regard to siding only. Upgraded shingles shall be used such as Horizon, Shingle, Timberline, or cedar shakes.

The architectural control committee must approve any and all privacy fences prior to their construction.

**7.2 Architectural Liability .** Declarant shall not be liable to anyone in damages who has submitted plans for approval, or to any Owner by reason of mistaken judgment, negligence, or nonfeasance of themselves, their agents or employees arising out of or in connection with the approval or disapproval of any such plans. Declarant shall be concerned about aesthetic characteristics only and do not assert architectural expertise. It is the sole duty and responsibility of the applicant to employ an architect or other person to design the requested modifications in a safe and architecturally sound manner. Each Owner of any interest in Summit Oaks, his heirs, successors and assigns, as a condition of his ownership, waives any right to damages which result from architectural designs requested by Declarant. Declarant shall exercise its best judgment as to aesthetic characteristics of architectural design and Declarant's judgment shall be final.

Declarant may, at its sole option, transfer its approval authority under this Article to a representative committee at any time. Said committee shall consist of three parties and shall be appointed by Declarant. Upon appointments said committee shall exercise all approval authority granted under this Article, and shall also fill any vacancies which may from time to time occur in the Committee.

## ARTICLE VIII

### LAND USE REQUIREMENTS

**8.1 Residential Structures.** All Lots within Summit Oaks shall be used for single family residential purposes except that any Lot dedicated to the park for park purposes may be used for park purposes. No building or structure shall be constructed, altered, placed, maintained or permitted to remain on any Lot except one detached single family dwelling with a private attached garage designed to accommodate a minimum of two automobiles.

**8.2 Building Size.** The size of any building or structure exclusive of one story open porches, basements and garages shall be:

**(a)** A one-story residence must have an above-grade finished area within the main structure of no less than eighteen hundred (1,800) square feet exclusive of garage, basement, open porch or accessory structures thereto.

**(b)** A split-level residence must have an above-grade finished floor area within the main structure of no less than eighteen hundred (1,800) square feet exclusive of garage, basement, open porch or accessory structure thereto.

**(c)** A story and a half residence must have finished floor area within the main structure of no less than sixteen hundred (1600) square feet exclusive of garage, open porch, or accessory structure thereto, and a total on the ground floor and second floor of not less than two thousand four hundred (2,400) square feet of floor area.

**(d)** A two-story residence must have above-grade finished floor area of no less than one thousand two hundred (1,200) square feet and a total of the ground and second floor of not less than (2,400) square feet.

**(e)** A split-entry residence must have finished floor area within the main structure of no less than eighteen hundred (1800) square feet on the upper level, exclusive of garage, open porch or accessory structure thereto.

**8.3 Building Height.** No building or structure shall be constructed altered, or maintained on any Lot which is more than two stories in height from ground to eave line. For purposes of building height, an exposed walkout basement shall not be included as part of the building height. Certain lots with suitable topography and architectural design will be evaluated by the Declarant to consider any exception.

**8.4 Building Setback.** No building, structure, or other improvement shall be constructed, altered or maintained on any Lot nearer than thirty (30) feet to the front line of a lot, or nearer than thirty (30) feet to a lot line adjoining a side street. No building or structure shall be located on any Lot nearer than ten (10) feet to any side interior building lot line, and not closer than twenty (20) feet to adjacent building or structure. For purposes of building setback, eaves and

steps shall not be considered as part of a building or structure. These setbacks can be changed with approval of the Declarant and the Burnsville Building Inspector.

**8.5 Mail Boxes.** Declarant shall provide each owner with a mail box. The design and construction of the mail box shall be at the discretion of the Declarant. Declarant shall endeavor to maintain uniformity in the mail boxes.

**8.6 Utilities.** All utility connection facilities including water, sewer, natural gas, telephone, electric and cable T.V. (if available) shall be underground. This provision does not affect already existing electric and telephone lines which may be above ground. No individual water supply system or individual sewage disposal system shall be permitted on any Lot. Liquid petroleum tanks use in conjunction with the heating of newly constructed homes made be allowed during the winter constructions months. Said liquid petroleum tanks shall be removed as soon as possible after natural gas is furnished by the utility company.

**8.7 Easement Areas.** Except for the easement hereinabove defined as being conveyed to the Association as Common Property of said Association easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of Summit Oaks along each lot side and rear lot line unless vacated by action of the municipal authority. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot shall be maintained continuously by the owner of the lot except for improvements owned by a public authority or utility company.

## ARTICLE IX

### COMMON PROPERTY

**9.1 Easement.** The aforementioned described easement to the Association herein defined as Common Property is conveyed to the Association for the use, enjoyment and benefit of all of the Owners of Lots in Summit Oaks. The use and enjoyment thereof is intended to be a passive use, and shall be preserved and maintained by the Association and its member owners.

**9.2 Other Common Property.** Nothing contained in this Article nor anywhere else in this Declaration shall prohibit the Association from obtaining any other Common Property of the Association in accordance with the terms and conditions in the Associations Articles and By-Laws or the terms and conditions of this Declaration.

## ARTICLE X

### PROHIBITED ACTIVITIES AND USES

**10.1 Driveways.** No building or structure shall be constructed, altered or maintained on any lot unless it has a driveway from a street running to the garage, which must be of sufficient area to

park at least two cars entirely off the street. All driveways shall be constructed of concrete or bituminous surfacing.

**10.2 Temporary Structures or Equipment.** No building or structure of a temporary character and no trailer, self propelled recreation vehicle, basement, tent, shack, garage or out building shall be used at any time as a residential dwelling on any Lot, either temporarily or permanently. No commercial vehicles, tanks, or commercial equipment of any kind shall be located, stored, or parked on any Lots. Garden type storage sheds if made of wood and finished exterior using materials specified for all structures are acceptable. Parking of R.V.s, boats, etc. on any Lot are subject to local ordinances.

**10.3 Signs.** No signs of any kind shall be displayed to public view on any Lot except a house, number sign or name sign, of not more than one (1) square foot, or except one sign of not more than six (6) square feet advertising the property for sale or rent.

**10.4 Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred or kept in Summit Oaks except that dogs, cats or other household domesticated pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

**10.5 Nuisances.** No noxious or offensive activity or orders shall be permitted on or to escape from any Lot, nor shall anything be done thereon which is or may become an annoyance or a nuisance, either temporarily or permanently.

**10.6 Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. All incinerators or other equipment for the storage or disposal of such materials shall be kept within the garage forming a part of a residence.

**10.7 Vehicles.** No buses, trucks, house trailers, trailers, unlicensed automobiles, aircraft, tractors, or watercraft over twenty (20) feet shall be parked, kept or stored on the property except on a temporary basis unless parked, kept or stored within a closed garage unless otherwise restricted or prohibited by local ordinance.

**10.8 Power Structures.** No poles, posts, towers, or antenna may be installed that exceed ten (10) feet in height except that an outside radio or television antenna may be placed upon the roof of a residence, providing such antenna does not extend more than ten (10) feet above the roof where it is located.

## ARTICLE XI

### GENERAL PROVISIONS

**11.1 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 in its own right and or by the Owner of any Lot subject to the Declaration, his or her respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said covenants, restrictions and easements shall be automatically renewed for successive periods of ten years.

**11.2 Amendments.** The covenants and restrictions of this Declaration may be amended only as follows:

(a) Only by Declarant, at its discretion, at any time up and until the last Lot in Summit Oaks, and such additional property as may hereafter be brought within the jurisdiction of this Declaration, has been sold by Declarant and a residence has been constructed on every such Lot;

(b) From the date the Declarant sells the last Lot in Summit Oaks and any additional property as may hereafter be brought within the jurisdiction of this Declaration to the end of the first twenty

(20) year period from the date of this Declaration by an instrument signed by not less than ninety percent (90%) of the Owners of the Lots; and

(c) Thereafter by an instrument signed by not less than seventy—five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

**11.3 Access.** For the purpose solely of performing the maintenance, repair and upkeep of the Common Property and any improvements or structures thereon authorized by this Declaration, the Declarant or the Association, through a duly authorized agent or employee, shall have the right, after reasonable notice to the Owners, to enter upon any Lot to gain ingress and egress to all Common Property.

**11.4 Enforcement.** Enforcement of these covenants and restrictions shall 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 to recover damages and against the land to enforce any lien created by these covenants; and failure 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.

**11.5 Variances.** Declarant hereby reserves the right to grant a reasonable variance or adjustment of these conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained herein. Such variances or adjustments shall be granted only in cases where the granting thereof shall not be materially detrimental or injurious to other property or improvements of the neighborhood and shall not defeat the general intent and purpose of these restrictions. Such right of variance shall terminate upon the Declarant selling the last Lot in Summit Oaks and such additional property as may be brought within the jurisdiction of this Declaration and houses being constructed on each and every such Lot.

**11.6 Notices.** Any notice required to be sent to any member of the Association or to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such member or Owner appearing on the records of the Association at the time of such mailing.

**11.7 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not effect any other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand as of the day and year first above written.

Albertville Industrial Development Co.

\_\_\_\_\_  
By Roger H. Scherer  
Its Partner

State of Minnesota )  
) ss.  
County of Hennepin)

The foregoing instrument was acknowledged before me this 24th day of September, 1987, by Roger H. Scherer, partner of Albertville Industrial Development Co., a Minnesota general partnership, on behalf of the general partnership.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

**RAMIER AND GRIES**  
**402 Park National Bank Building**  
**5353 Wayzata Boulevard**  
**Minneapolis, MN 55416**  
**(612) 542-1000**