

DECLARATIONS, RESTRICTIONS,  
PROTECTIVE COVENANTS AND CONDITIONS  
FOR  
EASTSIDE BUSINESS AND INDUSTRIAL PARK

This Declaration is made this \_\_\_\_\_ day of \_\_\_\_\_, 1978,  
by the undersigned hereinafter referred to as "Declarant":

WHEREAS, Declarant is the Owner of certain real property in  
the County of Deschutes, State of Oregon, hereinafter referred to as  
"The Property", as described in Exhibit "A", attached hereto and by this  
reference incorporated herein, and

WHEREAS, Declarant desires to subject said Property to certain  
protective covenants, conditions, restrictions, reservations, easements,  
liens and charges for the benefit of The Property and its present and  
subsequent Owners as hereinafter specified, and will convey the Property  
subject thereto,

NOW, THEREFORE, Declarant hereby declares that all of the  
Property is and shall be held and conveyed upon and subject to the ease-  
ments, conditions, covenants, restrictions, and reservations hereinafter  
set forth; all of which are for the purpose of enhancing and protecting  
the value, desirability and attractiveness of the Property. These ease-  
ments, covenants, restrictions, conditions and reservations shall con-  
stitute covenants to run with the land and shall be binding upon all  
persons, having any right, title or interest in the described Property  
or in any part thereof, their heirs, successors, and assigns, and shall  
inure to each present and future Owner thereof.

ARTICLE I  
DEFINITIONS

Whenever used in this Declaration, the following terms shall have the following meanings:

(1) "Association" shall mean the Eastside Business and Industrial Park Property Owners Association, a non-profit corporation organized under the laws of the State of Oregon; its successors and assigns.

(2) "Access Easement" means any private parking area, street, road, path or other thoroughfare necessary for service within any lot as shown on the recorded plat of the property.

(3) "Declarant" shall mean Babler-Taygrim Investment Co., dba Eastside Business and Industrial Park; its successors and assigns.

(4) "Lot" shall mean any numbered parcel of land shown by any recorded subdivision plat of the Property.

(5) "Owner" shall mean all those Owners who are members of the Association as provided in Article II, Section 1, hereof.

(6) "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot situated upon said Property, or a contract purchaser if the record owner retains title merely to secure an obligation. Owner does not include those having any interest merely as security for the performance of an obligation.

(7) "Property" or "The Property" shall mean and refer to the above described real property.

ARTICLE II  
MEMBERSHIP AND VOTING

Section 1. Membership:

Every owner which is subject by covenants of record to assessment by the Association shall be a member of the Association. Membership shall terminate upon the transfer of a fee simple title to a lot or the contract purchaser's interest by a contract purchaser who qualifies as a buyer. If an owner sells the lot by contract of sale, the owner's membership shall terminate and the contract purchaser's membership shall commence.

Section 2. Voting Rights:

The Association shall have two classes of voting membership:

(a) Class A:

Class A members shall be all those members as defined in Section 1 with the exception of Declarant. Class A members shall be entitled to one vote for each acre or a fraction of one vote for any fraction of an acre in which they hold the interest required for membership by Section 1. When more than one person or entity holds such interest or interests in any acre, such persons or entities shall be members and the vote for such acreage shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one acre.

(b) Class B:

Class B members shall be the Declarant. The Class B members shall be entitled to two votes for each acre or a fraction of two votes for any fraction of an acre in which it holds the interest required for

contingent by Section 1, provided that the Class B membership shall cease and become converted to Class A membership on December 31, 1995.

From and after December 31, 1995, the Class B members shall be deemed to be Class A members entitled to one vote for each acre or a fraction of one vote for any fraction of an acre in which it holds the interest required for membership under Section 1.

Section 3. Duties:

The Association, in addition to all other obligations and duties required by law, shall be responsible for the following:

(a) Operations, maintenance and upkeep of the irrigation system as described in Article III, Section 3 of this declaration.

(b) Collection of all maintenance assessments and special assessments authorized hereunder.

(c) Maintenance of all private parking lots and drives.

(d) Maintenance of all landscaped areas.

(e) Maintenance of signs.

(f) Maintenance of exterior buildings.

(g) Maintenance and removal of debris, i.e. trash, loose or unkept materials.

(h) Any other function authorized by the Directors of the Association.

ARTICLE III

PROPERTY RIGHTS

Section 1. Access Easements:

The Declarant hereby conveys an access easement over all private property utilized for private parking lots and drives to the Association for the purpose of maintenance of said lots and drives.

**Section 2. Irrigation System:**

(a) Definitions:

(1) **Irrigation System.** The main irrigation water distribution line used for purposes of distributing irrigation water to the irrigable landscaped areas located on the property.

(2) **Irrigable landscaped areas** That portion of the property which is irrigated by the irrigation system.

(b) The general irrigation system shall be maintained and operated by the Association for the benefit of all owners, even though not every lot has irrigable acreage and not every lot will receive irrigation water from the irrigation system. Each Lot Owner shall be responsible for the maintenance, operation and repair of irrigation water distribution lines and sprinkler heads located on his lot which is not part of the irrigation system maintained and operated by the Association. No part of the irrigation system or water distributed by said system shall be used for domestic use.

(c) Each lot owner shall be responsible for a prorata share of all expenses related to the irrigation system, including but not limited to city water charges. Such expenses will be a part of the maintenance assessment provided for herein. The prorata share of each owner shall be computed on the basis of the percentage of total irrigable acreage located on each owner's lot, if any. These percentages shall be computed upon completion of the irrigation system by the Declarant, and upon approval of the Board of Directors of the Association, made a part of the records of the Association.

(d) The Declarant hereby covenants that it will convey to the Association all right, title and interest in and to the electrical system, pipeline and sprinkler heads which form the irrigation systems.

(e) Declarant hereby conveys and reserves unto the Association the following described easements on, over and across ssid property for the irrigation system:

15' along the North margin of Lots 2, 3, 4, 5, 6 and 7, Block 1; Lots 1, 2 and 3, Block 2; Lots 1 and 2, Block 3; Lots 1, 2, 3 and 4, Block 4; Lots 1, 2 and 3, Block 5; Lot 1, Block 7; Lots 1 and 2, Block 8.

15' along the West margin of Lots 1 and 2, Block 1, Lots 1 and 6, Block 2, Lots 1, 3, 4 and 10, Block 3, Lot 1; Block 4; Lots 1 and 6, Block 5; Lots 6, 7, 8 and 9, Block 1; Lots 1, 2 and 3, Block 6; and Lots 1, 2, 3, 4 and 5, Block 7.

15' along the East margin of Lots 1, 2, 7, 8 and 9, Block 1; Lots 3 and 4, Block 2; Lots 2, 6 and 7, Block 3; Lot 4, Block 4, Lots 1, 2, 3 and 5, Block 5; Lots 2, 3 and 6, Block 8.

15' along the South margin of Lots 1, 3, 4, 5 and 6, Block 1; Lots 4, 5 and 6, Block 2; Lots 7, 8, 9 and 10, Block 3; Lots 3, 2, 3 and 4, Block 4; Lots 4, 5 and 6, Block 5; Lot 5, Block 7; Lots 5 and 6, Block 8 and the South margin of Lot 3, Block 6.

#### ARTICLE IV

##### Covenant for Maintenance Assessment

###### Section 1. Creation of the Lien and Personal Obligation of

###### Assessments:

Each Owner of any Lot by acceptance of a deed or contract of purchase therefor, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay the Association:

- (a) Annual assessments or charges,
- (b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.
- (c) Specific assessments for maintenance.

The annual, special and specific assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Property upon which each assessment is made until paid or satisfied. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment was made. The personal obligation for delinquent assessments shall pass to the successor in title unless expressly assumed by the successor. The Secretary of the Association may file liens against delinquent properties by recording a notice of delinquency in the appropriate county records.

###### Section 2. Purpose and Amount of Annual Assessments:

Assessments may be levied by the Directors of the Association for the following purposes:

- (a) Maintenance of private parking lots and drives.

- (b) Maintenance as provided for in Article II, Section 3.
- (c) Administrative expenses.
- (d) Collection costs.
- (e) Legal and accounting expenses.
- (f) Any other purpose declared appropriate by the Directors of the Association.

The first annual assessment will be levied in 1978 and will not exceed \$10 per acre. The first annual assessment will remain in effect until December 31, 1979. Thereafter the amount of the annual assessment will be determined by the Directors of the Association.

Section 3. Special Assessments for Capital Improvements:

In addition to the annual assessments specified above, 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 parking areas, irrigation system, or other improvements provided that except for repairs or replacement, any such assessment which exceeds \$2,500 in cost in the aggregate in any assessment year shall require the affirmative vote of a majority of the votes entitled to be cast voting in person or by proxy at a meeting duly called for this purpose after 30 days' written notice. At the meeting the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If a quorum is not present in person or proxy, a new meeting may be called by the Directors. If at least two meetings have been held for the purpose of approval of a special assessment at which a quorum has not been present in person or proxy, a quorum shall be deemed to be present at the third or any subsequent such meeting.

filled by the Directors if any member shall be present in person or by proxy.

Section 4. Uniform Rate of Assessment:

Both annual and special assessments shall be charged at a uniform rate per acre or fraction thereof owned by any member and such assessments may be collected on an annual, quarterly or monthly basis at the discretion of the Directors.

Section 5. Specific Assessment for Maintenance:

The association may also levy, in any assessment year, a specific assessment applicable to that year only, for the purpose of defraying in whole or in part the reasonable cost of reconstruction, unexpected repair, repair or replacement of signs, building exteriors, and maintenance of private yards, such as trash or litter removal, provided that the owner of said property after 45 days written notice has not corrected said maintenance problem. Said maintenance may include but is not limited to, but not limited to, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements. Such maintenance shall be assessed against the lot upon which the maintenance is done and shall be added to and become a part of the annual maintenance assessment or charge to which such unit is subject under Article IV, Section 6 hereof and, as a part of such annual assessment or charge, it shall be a lien and obligation of the owner and shall become due and payable in all respects as provided in Article IV, Section 6 hereof.

Section 6. Effect of Non-Payment of Assessments and Remedies of Association:

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid with 30 days after the due date,

the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. The Secretary of the Association shall file in the office of the Director of Records, County Clerk or appropriate recorder of conveyances of Deschutes County, State of Oregon, within 30 days after delinquency, a statement of the amount of any such charges or assessments, together with interest as aforesaid, which have become delinquent with respect to any Lot on said Property, and upon payment in full thereof, shall execute and file a proper release of the lien securing the same. The aggregate amount of such assessments, together with interest, costs, and expenses and a reasonable attorneys' fee for the filing and enforcement thereof, shall constitute a lien on the Lot, with interest to be fixed from the date the note of delinquency thereon is filed in the office of said Director of Records or County Clerk, or other appropriate recording office, until the same has been paid or released as herein provided. Such lien may be enforced by said Association in the manner provided by law with respect to liens upon real property. The Owner of the property at the time said assessment is levied shall be liable to pay all the expenses, costs, and disbursements, including reasonable attorneys' fees of the Declarant or of the Association, as the case may be, of processing and, if necessary, enforcing such liens, all of which expenses, costs and disbursements and attorneys' fees shall be secured by said lien, including fees on appeal, and such Owner at the time such assessment is levied, shall also be liable for any deficiency remaining unpaid after any foreclosure sale. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his building, lot or building site.

Section 7. Subordination of the Lien to Mortgages:

The lien of the assessments provided for herein shall be inferior, junior, and subordinate to the lien of all mortgages and trust deeds now or hereafter placed upon said property or any part thereof. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage or trust deed, pursuant to a decree of foreclosure under this mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such mortgages or other prior liens and charges have been satisfied. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereon.

ARTICLE V

RESTRICTIONS ON USE OF PROPERTY

The following restrictions shall be imposed on each lot:

1. No building, structure or fence shall be constructed or placed on any lot without the prior consent of the Architectural Review Committee as defined in Article III, Sections 1 through 6.
2. No noxious or offensive activity shall be carried on upon any lot.
3. No sign will be placed on any or structure lot without the prior consent of the Architectural Review Committee. Graphic signs on buildings would be allowed if approved by the Architectural Review Committee.

4. Each lot and its improvements shall be maintained in a clean and attractive condition, in good repair and in compliance with any regulations established by the Architectural Review Committee.

5. No construction offices may be left on any lot except during construction of an improvement. These construction offices may be manufactured but must be screened in accordance with item 13 of this Article. All parking shall be in designated parking lots as approved by the Architectural Review Committee. All such equipment shall be stored as specified in paragraph 14 below.

6. All applicable zoning ordinances and building codes will be observed by each Owner.

7. Site plans shall be reviewed and approved by the Architectural Review Committee before making application to the City.

8. Exposed metal or trim must be anodized or painted to blend with the entire exterior of such structure and be non reflective.

9. Fences and trim shall be of type and quality which is approved by the Architectural Review Committee. All materials used for window frames, and all glass doors must be approved by the Architectural Review Committee.

10. All landscaping must be approved by the Architectural Review Committee.

11. All equipment, operational supplies, miscellaneous parts and storeable items must be stored in approved buildings or garages, or must be screened with approved fencing material. All fuel tanks must be screened with approved fencing material or placed underground.

12. No trees shall be removed from any lot without prior approval of the Architectural Review Committee.

13. All interior lighting must be approved by the Architectural Review Committee.

14. The business section of the industrial park shall have more extensive landscaping as established by the Architectural Review Committee.

#### ARTICLE VI

##### ARCHITECTURAL REVIEW COMMITTEE

###### Section 1. Responsibility:

The Architectural Review Committee will be responsible for the approval of plans and specifications for the development of any building, structure, or other improvements on any lot.

###### Section 2. Membership:

The Architectural Review Committee shall consist of three members, and shall initially be composed of Max Taylor, Peter C. Moor and A. J. ... A majority of the committee may designate a representative to act in its behalf. In case of death or resignation of any member, the remaining member or members shall have full power to designate a successor. Neither the representative nor the committee or its designated successor shall be entitled to any compensation for services performed by said members. In the event that the deaths or resignations of all members of the committee shall occur without successors having been appointed, the majority of the owners shall have full power to designate successors.

**Section 3. Action:**

Except as otherwise provided herein, a majority of the Architectural Review Committee shall have power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. The Committee may render its decisions only by written instrument setting forth the actions taken by the members consenting thereto.

**Section 4. Failure to Act:**

In the event the Committee, or its designated representatives, fail to approve or disapprove plans and specifications within 60 days after the same have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced before completion, approval will not be required and these provisions shall be deemed to have been fully complied with.

**Section 5. Non waiver:**

Consent by the Architectural Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or binding upon its right to withhold approval as to any similar matter subsequently proposed or submitted to it for consent.

**Section 6. Liabilities:**

Neither the Architectural Review Committee nor any member thereof shall be liable to any owner for any damage, loss, prejudice suffered or claimed on account of any action or failure to act of the Committee or any member thereof, provided that only the members, in accordance with actual knowledge possessed by him, has acted in good faith.

ARTICLE VII  
GENERAL PROVISIONS

Section 1. Enforcement:

The Association, or any Owner, or the owner of any recorded mortgage upon any part of said Property, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. 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. If any Owner constructs or permits to be constructed on his Property any improvement or allows the conditions of his Property to violate any provision of this Declaration, the Association may no sooner than 45 days after delivery to such Owner of written notice of the violation enter upon the offending property and remove the cause of such violation, or alter, repair, or change the item which is in violation of such Declaration in such manner as to make it conform thereto with the reasonable cost of same to be a charge against the Owner's land.

Section 2. Invalidity:

Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Termination:

The covenants and restrictions of this Declaration shall run

and assents for a term of 25 years from the date this Declaration is recorded, after which time they will be automatically extended for successive periods of five years unless three-quarters of the Members of the Association affirmatively vote to terminate this Declaration. Such termination will be perfected by the Secretary of the Association filing a certification of the vote in the appropriate records of Deschutes County, Oregon.

Section 4. Amendments:

Any of the covenants, conditions or restrictions of this Declaration except the easements herein granted and the property rights herein granted by Article III, Section 1.(a) of this Declaration may be amended by a vote amounting to seventy-five percent (75%) of the total votes entitled to be cast. The Amendment will be perfected by the Secretary of the Association filing a certification of the vote in the appropriate records of Deschutes County, Oregon.

Section 5. No Right of Reversion:

Nothing herein contained in this Declaration, or in any form of deed which may be used by Declarant in selling said Property, or any part thereof, shall be deemed to give or reserve to Declarant or the Association any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

Section 6. Books and Records:

The books and records of the Association, upon demand, in writing, stating the purpose thereof, may be inspected by any Member, or his attorney or agent, for any proper purpose, at any reasonable time.

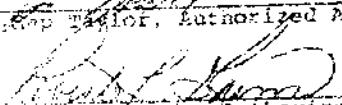
Section 7. Benefit of Provisions; Waiver;

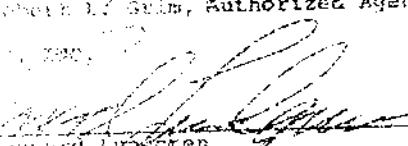
The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant, the Association, and the Owner or Owners of any portion of said property, and their heirs and assigns, and each of their legal representatives, and failure by Declarant or by the Association or by any of the Property Owners or their legal representatives, heirs, successors, or assigns, to enforce any of such conditions, restrictions or charges herein contained shall in no event be deemed a waiver of the right to do so.

IN WITNESS WHEREOF, the undersigned, the Owner of all said Property, has hereunto caused these presents to be executed this 8th day of November, 1978.

BABLER-TAYCRIM INVESTMENT CO.

By  Ray Taylor, Authorized Agent

 Robert L. Crim, Authorized Agent

 Barbara L. Babler

STATE OF OREGON )  
 ) ss.  
 County of Deschutes )

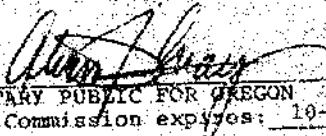
The foregoing instrument was acknowledged before me  
this 8th day of November, 1978, by RAY TAYLOR and ROBERT L. CRIM.

  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 11/8/81

WL 287 AS 392

STATE OF OREGON      }  
County of Deschutes    }

The foregoing instrument was acknowledged before me  
this 8th day of November, 1978, by Bernard Lundström for Leico, Inc.

  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 10-1-80

14270

STATE OF OREGON

County of Deschutes

I hereby certify that the within instrument  
hereby recorded was received for record  
on 9 Nov. 1978 A.D. 1978  
in 2 page(s) of 1 M., and recorded  
in Book 287 on Page 315 Records

By Rosemary Patterson  
County Clerk  
Attest: Rosemary Patterson Notary