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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by LEAVITT BROTHES, a partnership, hereinafter referred to as "Declarant".

WITNESSTH:

WHEREAS, Declarant is the owner of certain property in the City of Troutdale, County of Multnomah, State of Oregon, which is more particularly described as follows:

Beginning at a point on the East line of Troutdale Road, said point being 990.0 feet South of the intersection of the South line of S. E. Stark Street with the East line of Troutdale Road and running thence East 200.0 feet; thence North 85 0 00' East 312.0 feet; thence Southeasterly along 485-00 foot radius curve on the right (the long chord of which bears South 68 30' East 432.81 feet) an arc distance of 448.64 feet; thence South 42 00 East 514'.00 feet; thence North 44 0 001 East 940.0 feet more or less to a point on the Easterly extension of the South line of that tract of land conveyed to W. A. Elmer and Rosalie Elmer by deed recorded in 1947 in Book 1199, Page 504 of the Deed Records of Multnomah County, Oregon; thence West, along said Easterly extension, 80.0 feet more or less to the Southeast corner of said Elmer tract 1 thence North 4 0 13' East; along the East line of said Elmer tract, 853.8 feet to a point on the South line of said S. E. Stark Street; thence Easterly along the South line of S. E. Stark Street, to a point on the East line of the J. Lewellyn D.L.C., thence South along the East line of said Lewellyn D.L.C., 1,450.0 feet; thence Southwesterly 1330.0 feet more or less to a point that is 2000.0 feet East and 1460 feet South of the point of beginning; thence West 2000.0 feet to a point on the East line of Troutdale Road; thence North, along said East line, 1460.0 feet to the point of beginning.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, 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 1
DEFINITIONS

Section 1. "Association" shall mean and refer to Old Sweetbriar Farm Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section-3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows
Tract A, B, C,

Part of the Plat of Old Sweetbriar Farm

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Leavitt Brothers, a partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE 11

PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title, :~-.o every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area 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 transfer shall be effective unless an instrument signed by two thirds (2/3) of the total membership agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE 111

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting memberships

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an 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.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding the Class B membership, or
- (b) on December 31, 1977.

ARTICLE 1V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations 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 his successors in title unless expressly assumed by them.

Section 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 improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall not exceed seventy-five dollars (\$75-00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than 3% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 3% by a vote of two-thirds (2/3) of the total membership who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal

property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the total membership who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than 30 days nor more than 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 the total 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 (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be ~~FTxe-d~~ at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject therein. The due dates shall be established by the Board of Directors. 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.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 9 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to 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 lien thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Real Property Taxes: In the event real property taxes shall become delinquent on the common area, the total amount of the delinquent taxes shall be divided equally among all the owners, and said portion of each owner's share of delinquent taxes shall be a lien on said owner's lot to the same extent as if the delinquent tax was on the owner's lot.

Section 11. Subordination of the Lien of Taxes to Mortgage. The lien of the

taxes provided for herein relative to the Common Area only shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the tax lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lien thereof, shall extinguish the lien of such taxes as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any taxes thereafter becoming due or from the lien thereof.

Section 12. Common Area Maintenance Responsibility. Maintenance of the common area shall be the responsibility of the Sweetbriar Farm Homeowners Association, and failure to maintain the common area to standards deemed "Reasonable Standards of Maintenance" by the Troutdale City Council or the Troutdale Planning Commission shall constitute approval by the Association to permit the City to have the maintenance performed. The cost of said maintenance is to be a lien on the property of the common area and the cost of said maintenance shall be divided equally between and among the individual owners, as defined herein, holding an interest in the common area,

ARTICLE V

DECLARATION OF

PROTECTIVE COVENANTS OF A PORTION OF OLD SWEERBRIAR FARM

"A.C.C." shall mean and refer to the Architectural Control Committee as provided for and defined in these covenants.

Section 1. Property subject to this Declaration. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this declaration is located in Multnomah County, Troutdale, Oregon, plat of Old Sweetbriar Farm as the same appears on the map and plat thereof, recorded June 23, 1972 in Book 1203, Page 7 and 91 and June 26, 1973 in Book 1204, Page 34 and 35.

Section 2. General Provisions. These restrictive covenants shall run with the land and shall be binding upon all parties thereto and all persons claiming under them for a term of 20 years. Simultaneously, with the incorporation of the Old Sweetbriar Farm Homeowners Association, the incorporators shall hold a meeting and among its other duties shall appoint an Architectural Control Committee of not less than five persons, as provided in the Declaration. The provisions of this declaration are declared to create a mutual, equitable covenants and servitudes for the benefit of the Declarant and each owner or contract purchaser of a lot or building site subject to said covenants, and their successors in interest. Enforcement of these covenants, conditions and restrictions may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenants, condition or restriction either to restrain violation and/or to recover damages, and failure of the Declarant, the Architectural Control Committee or any owner or contract purchaser to enforce any covenant, restriction or exercise any rights herein contained shall in no event be deemed a waiver of the right to do so thereafter. All costs incurred in enforcement shall be at the expense of the violator or violators.

Section 3. Building Restrictions. All lots as recorded in the plat shall be known and described as "residential lots". A building site shall consist of at least one or more residential lots as shown on said plat.

No building or structure shall be erected, constructed, or maintained or permitted upon such residential lots, except upon a building site as hereinabove defined. No dwelling shall be constructed or permitted upon a building site other

than one detached single family dwelling for a single family occupancy only, not to exceed two stories in height, and a private garage for not less than two standard size automobiles.

In the event a one story residence is constructed, it shall not be less than 900 square feet not including garages or porches. In the event a two story home and split levels are constructed, the main floor shall consist of not less than 650 square feet on the main floor, exclusive of garages and porches. These minimum sizes are superceded by the City of Troutdale ordinance which requires a minimum of 1000 square feet main floor living area exclusive of garages in all cases.

Section 4. Building Limits. All dwellings or garage or any part thereof or any other structure shall be erected in conformity with all local building codes. Where it is architecturally feasible it is recommended that all garages be attached to, or incorporated in and made a part of the dwelling houses. The Architectural Control Committee shall have the authority in any individual case to make such exceptions to the building set back and fence requirements set forth herein as said committee shall in its uncontrolled discretion deem necessary or advisable.

No lines or wires for the transmission of current or for telephone use shall be constructed, placed or permitted to be placed upon any residential lot or building site outside the buildings thereon unless the same shall be underground or in conduit attached to a building. No rotary beams or other similar devices shall be constructed on any residential lot or building site without the written approval of the A.C.C.

Section 5. Yard Requirements. No dwelling or other building shall have a foundation erected within twenty (20) feet of the front lot line. Side yards shall be a minimum of five (5) feet; on corner lots the side yard shall be a minimum of ten (10) feet on the side abutting the street. There shall be a rear yard with a minimum depth of twenty-five (25) feet to the main building.

Section 6. Approval of Plans by Architectural Control Committee. All buildings and structures including concrete or masonry walls, rockeries, fences and swimming pools, to be constructed within the property shall be approved by the A.C.C. Complete plans and specifications of all proposed buildings, structures, and exterior alterations, together with detailed plans showing the proposed location of the same in the particular building site, shall be submitted to the A.C.C. before construction or alteration is started, and such construction or alteration shall not be started until written approval thereof is given by the A.C.C.

All plans and specifications for approval by the A.C.C. must be submitted at least ten (ten) days prior to the proposed construction starting date. The maximum height of any residence shall be established by the A.C.C. as a part of the plan approval and shall be given in writing together with the approval. One set of approved plans must be on the job site at all times.

Said plans or specifications shall be prepared by an architect or a competent house-designer approved by the A.C.C. One complete set of said plans and specifications shall in each case be delivered to and permanently left with the A.C.C. All buildings or structures shall be erected or constructed by a contractor or house builder approved by the A.C.C.

As to all improvements, construction and alterations within the property, the A.C.C. shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations which is not suitable or desirable in the A.C.C.'s opinion, for any reason, aesthetic or otherwise, and in so passing upon such design, the A.C.C. shall have the right to take into consideration the suitability of the proposed building or other structure, and the material of which it is to be built and the exterior color scheme, to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and the effect

or impairment that said structures will have on the view of surrounding building sites, and any and all factors, which, In the A.C.C.'s opinion, shall affect the desirability or suitability of such proposed structure, improvements, or alterations.

Section 7. The Architectural Control Committee. No building, fence, hedge, boundary wall, or other structure shall be erected, placed or altered on any residential lot or building site until the building plans, specifications and plot showing the location of such improvement have been approved in writing by a majority of the A.C.C. as to the quality of workmanship and materials planned and for conformity and harmony of the external design with existing structures on the said residential lots or building sites, and as to location of the building with respect to topography, finish grade elevation and building set-back restrictions. In the case of the death, disability or resignation of any member or members of said committee, the surviving or remaining member or members shall have full authority to designate a successor or approve or disapprove such design and location or to designate a representative with like authority. In the event said Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required. The property owner shall pay all attorney's fees, court costs and other expenses incurred In enforcing decision of the Committee. Said Committee or its designated representative shall act without compensation. The powers and duties of such committee shall cease one (1) year after completion of construction of a single family dwelling and the sale of said dwelling to the initial owner/Occupant on all of the building sites within the property.

Section 8. Prosecution of Construction Work. Any dwelling or structure erected or placed on any residential lot or building site in this subdivision shall be completed as to external appearance, including finished painting, within eight (8) months after date of commencement of construction and shall be connected to an acceptable sewage disposal facility.

All front yards and landscaping must be completed within six months from the date of completion of the building or structure constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the A.C.C.

Section 2. Easements. Easements for installation and maintenance of utilities and drainage are hereby reserved over the rear 5 feet of each lot and the side 5 feet of each lot.

Section 10. Noxious Use of Property. No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind, including day schools, nurseries, or church schools shall be conducted or carried on upon any residential lot or building site nor shall any goods, equipment vehicles, including buses, boats, campers, trucks, and trailers of any description) or materials or supplies used in connection with any trade, service, or business, wherever the same may be conducted, be kept, parked, stored, dismantled, or repaired outside of any residential lot or building site or on any street within the existing property nor shall anything be done on any residential lot or building site which may be or may become an annoyance or nuisance to the neighborhood. No premises shall be used for any other purpose whatsoever except for the purpose of a private dwelling or residence.

No trash, garbage, ashes, or other refuse, junk vehicles, underbrush, or other unsightly growths or objects, shall be thrown, dumped or allowed to accumulate on any lot or building site or public street. In the event any such condition shall exist, any person entitled to hereunder may use the legal powers as set forth in these covenants.

No trailer, camper, basement, tent, shack, garage, barn, or other outbuilding or temporary structure erected or situated within the property shall, at any time, be used as a residence, temporarily or permanently, nor shall any permanent building or structure be used as a residence until it is completed as to external appearance, including finished

painting. The permission hereby granted to erect a permanent garage or other building prior to construction of the main dwelling house shall not be construed to permit the construction, erection or maintenance of any building of any nature whatsoever at any time, without the approval required by the A.C.C.

The streets in front of the lots shall not be used for the overnight parking of any automobiles and shall not be used for the storing of any boats, trailers, camper vehicles, trucks, or other vehicles of any nature. No boat, boat trailer, house trailer, camper, automobile, truck or other vehicle, or any part thereof shall be stored or permitted to remain on any residential lot or building site unless the same is stored or placed in a garage or other fully enclosed space, or behind a substantially sight obscuring fence or hedge. Any such garage, enclosed space, fence or hedge shall be approved by the A.C.C., as provided for in these Covenants, and in the case of a fence or hedge, the height thereof and extent such boat, boat trailer, house trailer, camper, automobile, truck or other vehicle or any part thereof, must be obscured shall be within the jurisdiction of the A.C.C. In the event of approval by the A.C.C. for a fence or hedge, as herein provided, such approval shall be for a specific item to be stored and shall not be a general approval for storage of proscribed items, and such approval shall become void upon disposition of such stored item.

All utilities, on and in public dedicated areas, or on private property, or on and in the common areas, including water, sewer, storm sewer, and power shall be installed underground in compliance with all Governmental Regulations for the installation and maintenance of the same.

Section 11. Fences and Hedges. All fences, hedges, or boundary walls situated anywhere upon any residential lot or building site must be approved in writing by the A.C.C. as to its height and design prior to construction. Fences shall be well constructed of suitable fencing material and shall be artistic in design and shall not detract from the appearance of the dwelling house located upon the lot or building site or be offensive to the owners or occupants thereof, or detract from the appearance of the dwelling house located on the adjacent lots or building sites. No trees shall be removed by the property owners or the Homeowners Association from any lot or from the common area without permission of the Architectural Control Committee. The A.C.C. shall have the right to replace any tree or trees removed without authorization, and replacement costs shall be borne by the person or persons removing said tree or trees. The A.C.C. may add the cost of replacement of said tree or trees to the annual dues of the Homeowner from whose lot the tree was removed. The A.C.C. shall only grant such permission provided the tree proposed for removal is replaced in the same or another location on the same property with a tree of equal quality. The A.C.C. shall be the sole judge in deciding whether there has been such unreasonable interference. In case of violation, the A.C.C. shall have enforcement powers as set forth in these covenants.

Section 12. Fences on Lots Adjacent to the Common Area. No fence more than four (4) feet in height shall be erected along the side or rear of any lot adjacent to common area tracts A, C, E, or F with the exception of those lots along Troutdale Road adjacent to tract A, which shall abide by an A.C.C. uniform fence standard for that section. . As used in this section, the term "fence" shall mean any barrier or wall other than natural living, organic vegetation. All fences, before erected, must be approved by the A.C.C. as provided in Article V, Sections 6, 7 and 11.

Section 13. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

Section 14. Mail Boxes. All mail boxes must be of a standard accepted by the U. S. Postal Authorities, and must be located in those areas so designated by the U. S. Postal Department. Structures containing such mail boxes must be approved by the A.C.C.

Section 15. Garbage Can and Refuse Disposal. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment shall be kept in a clean and sanitary condition. All containers must be buried or screened so as not to be visible from any street or adjacent properties or residences.

Section 16. Signs. No sign of any kind shall be displayed unless written approval is received from the A.C.C., with the exception of a real estate For Sale or For Rent sign the maximum size of which shall be two feet by three feet.

Section 17. Clothes Lines. No exterior clothes lines are allowed that can be seen from any street or adjacent properties or residences.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, 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 covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. In validation 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. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by the Owners of not less than seventy-five percent (75%) of the lots. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of the total membership.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration Annexation of additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

The above document was signed by Donald H. Leavitt on behalf of Leavitt Bros. on July 21, 1972 and recorded with Multnomah County (Deed of Records) Book 871 Pages 1270 through 1285-

Pertinent amendment information is reflected in the above text. These Covenants were amended 4 times and recorded as follows:

Amendment 1: Recorded with Multnomah County, Oregon Deed Records, Book 871, Page 1270
Amendment 2: Recorded with Multnomah County, Oregon Deed Records, Book 1001, Page 1635
Amendment 3: Recorded with Multnomah County, Oregon Deed Records, Book 1098, Page 2084
Amendment 41 Recorded with Multnomah County, Oregon Deed Records, Book 1098, Page 2107