



DALLESPORT INDUSTRIAL PARK

CONDITIONS, COVENANTS AND RESTRICTIONS

ADOPTED RESOLUTION 20-79

AUGUST 7, 1979

Revised

Resolution 22-79

August 28, 1979

DECLARATION OF RESTRICTIONS & COVENANTS

This Declaration, made the 7th day of August, 1979, by Klickitat County Port District No. 1 (hereinafter "Declarant").

ARTICLE I - RECITALS

- 1.01** Declarant is the owner of certain real property in the County of Klickitat, State of Washington, described in Exhibit "A" which is attached hereto and by reference made a part hereof (hereinafter the "Property").
- 1.02** In order to establish a general plan for the improvement and development of the Property, Declarant desires to impose on it mutual, beneficial restrictions for the benefit of all the lands in the Property and for the benefit of Declarant and the future owners/lessors of those lands.
- 1.03** In order to insure the proper development and use of the Property, to protect the owner/lessor of each parcel within the Property against such improper development and use of parcels within the Property and of the Property as a whole as will depreciate the value of his parcel, to prevent haphazard and inharmonious improvements, and in general, to provide adequately for a high type and quality of improvement and use of the Property in accordance with a general plan for the development of the Dallesport Industrial Complex as a whole, Declarant desires to subject the Property and each parcel of the Property to certain covenants for the benefit of all property within the Complex. All of the property and each parcel within the Property shall be held, improved and conveyed subject to those covenants which shall be inform in accordance with this Declaration of Declarant and by each Owner of a parcel or parcels of real property within the Complex.

ARTICLE II - GENERAL PROVISIONS

- 2.01** Establishment of Restrictions and Covenants: Declarant, owner of the Property, hereby declares that the Property is now held, and shall be transferred, sold, leased, conveyed and occupied subject to the restrictions and covenants herein set forth, each and all of which is and are for and shall inure to the benefit of and pass with each and every parcel of the Property and apply to and bind the heirs, assignees and successors in interest of each and every owner of a parcel or parcels of the Property.
- 2.02** Restrictions Operate as Covenants: Each purchaser or lessor of any parcel of the Property covenants and agrees with Declarant, its successors and assigns to use the Property only in accordance with the restrictions herein set forth and to refrain from using the Property in any way inconsistent with or prohibited by the provisions of this Declaration.

- 2.03** Purpose of Restrictions and Covenants: It is the intent and purpose of these covenants and restrictions to allow the location on the Property of general manufacturing activities, provided that such activities are confined within a building or buildings and do not contribute excessive noise, dust, smoke or vibration to the surrounding environment nor contain a high hazard potential due to the nature of the products, material or processes involved. It is the further intent and purpose of these covenants and restrictions to control the user-occupant density on the Property, to expressly prohibit certain uses of the Property and to protect the character of The Dallesport Peninsula.
- 2.04** Plans and Specifications for Development: No property will be leased, sold or otherwise conveyed to any party without first having had plans and specifications for the use and development of the property reviewed and approved by the Port Commission. Such plans and specifications must be submitted in writing with all necessary supporting documents, including a timetable for development and putting the property to use.
- 2.05** Right of First Refusal: In the event that the purchaser shall sell subject property, the Port shall have the right of first refusal to match or better any bonanza offer received by purchaser. The Port shall have 30 days from the submission of the offer to Port by the purchaser to exercise this right of first refusal.
- 2.06** Lack of Progress in Development and Utilization of Acquired Port Property: Port industrial property has been established to help broaden the economic base of the community and to provide additional job opportunities. To further discourage speculative acquisition of Port property, failure to follow through with the plans and specifications upon which the determination of approval of the conveyance of property was based, including the timetable for development and utilization, shall be grounds for the Port to repossess the property. Should there be substantial evidence of a lack of progress towards the stated use of the property and/or evidence of a lack of good faith in attempting to do so, then the Port may re-take the property from the purchaser/lessee. The client or firm will be reimbursed for repossessed property at the original purchase price or such portion thereof as has been paid, or in the case of a lease situation, the lessee will have that portion of any prepaid rent returned that has not been used.
- 2.07** Definitions:
- a. Area of Elevation: Total height and length of a building as projected to a vertical plane.
 - b. Building Line: An imaginary line parallel to the street right-of-way line specifying the closest point from this street right-of-way line that a building structure may be located (except for overhangs, stairs, and sunscreens).

- c. Lot: Parcel or site allocated to any individual client or firm, either by lease description or deed of sale.
- d. Right-Of-Way Line: When reference is made to right-of-way line, it shall mean the line which is then established on either the adopted County Master Plan of Arterial Roads or the filed Tract Map for Minor Roads as the ultimate right-of-way line for roads or streets.
- e. Side & Front of Lots & Sites: The Front of a Lot or Site, except a corner Lot or Site, is the portion thereof facing on any street. (Thus a Lot or Site may have two Fronts where, for instance, it faces onto two parallel streets. As to corner Lots or Sites, the narrowest frontage of a Lot of Site facing the street is the Front, and the longest side facing the intersecting street is the Side, irrespective of the direction in which the structures face.)
- f. Sign: Any structure, device or contrivance, electric or non-electric, and all parts thereof which are erected or used for advertising purposes upon or within which any poster, bill bulletin, printing, lettering, painting, device or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted, or otherwise fastened or affixed.
- g. Site: All continuous land under one ownership and/or tenancy; provided, however, that multiple occupancy of a building in accordance with Paragraph 4.04 of this Declaration does not destroy a parcel's character as a Site.
- h. Streets: Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way. In the case of private or non-dedicated streets, a minimum setback from the right-of-way line of said streets of ten (10) feet shall be required for all structures. Except for sidewalks or access drives, this area shall be landscaped according to the setback area standards from dedicated streets contained herein.

ARTICLE III - PERMITTED USES

- 3.01** Each and every parcel of the property is restricted to the following permitted uses:
- a. Uses primarily engaged in research activities, including but not limited to research laboratories and facilities, developmental laboratories and facilities, and compatible light manufacturing relating to the following examples: Bio-Chemical, Development Facilities for National Welfare on Land, Sea and Air, Film and Photography, Medical, Dental, Metallurgy, Pharmaceutical, X-ray.
 - b. Manufacture, research assembly, testing and repair of components, devices, equipment and systems and parts and components such as but not limited to the following examples: Coils, Tubes, Semi-Conductors; Communication, Navigation Control, Transmission and Reception Equipment, Control Equipment and

Systems; Glass Edging, Beveling and Silvering; Graphics, Art Equipment; Metering Instruments; Optical Devices, Equipment and Systems; Phonographs, Audio Units, Radio Equipment and Television Equipment; Photographic Equipment; Radar, Infra-Red and Ultra-Violet Equipment and Systems; Scientific and Mechanical Instruments; Testing Equipment.

- c. Other manufacturing to include but not limited to the following examples:
- (1) Manufacture and/or assembly of the following or similar products: Aircraft and Related Components; Automobiles and Parts; Boats; Clocks and Watches; Coffins, Ceramic Products; Concrete Products; Electrical Appliances; Farm Equipment; Heating and Ventilating Equipment; Linoleum; Machinery and Machine Tools; Musical Instruments; Neon Signs; Novelties, Oil Well Valves & Repairs; Optical Goods; Refrigeration; Screw Machine Products; Sheet Metal Products; Shoes, Silk Screens; Sporting Goods; Springs; Stencils; Toys; Trailers; Trucks.
 - (2) The manufacture of products or products made from the following or similar materials: Aluminum; Bags (except Burlap Bags or Sacks); Batteries; Boxes, Paper; Brass; Cans; Copper; Glass; Grinding Wheels; Iron; Linoleum; Matches; Mattresses; Paper; Steel; Tin; Tools; Wool; Yarn.
 - (3) The Manufacturing, compounding, processing or treatment of the following or similar items: Acids, Non-Corrosive; Candles; Cigarettes and Cigars; Detergents; Disinfectants; Dye; Food Products; Lubricating Oil; Pharmaceutical Products; Plastics; Toiletries; Vitamin Products; Waxes and Polishes.
 - (4) Distribution and Warehousing Plants.
- d. Administrative, professional and business offices associated with an accessory to a permitted use.
- e. Regional or home offices of industries which are limited to a single use and accessory to any of the above industrial developments.
- f. Blue printing, photostating, photo engraving, printing, publishing and bookbinding, provided that no on-site commercial service is associated with said uses.
- g. Cafeteria, café, restaurant or auditorium accessory with and incidental to any of the foregoing uses.
- h. Agriculture, as a continuation of the existing land use, and all necessary structures and appurtenances shall be permitted.

- i. General contractor and construction industries relating to the building industry, such as general contractors, electrical contractors, plumbing contractors, etc.
- j. Smelter and foundry operations, so long as they are able to comply with all federal, state and local environmental laws and regulations. Energy efficient reclamation and recovery processes will be particularly sought.
- k. Any other use permitted by applicable zoning ordinances and regulations of government authorities having jurisdiction over the Property, provided Declarant specifically consents to such use in writing.

3.02 All uses listed above are subject to the Development standards listed in Article IV and Performance Standards listed in Article V.

ARTICLE IV - DEVELOPMENT STANDARDS

4.01 Setbacks: No building shall be located on any one or more Lots nearer to the front Lot line or nearer to the side Lot line than the minimum setback area.

- a. Front Yard Setback: Thirty (30) feet, except that unsupported roofs or sunscreens may project six (6) feet into the setback area.
- b. Side Yard Setback: Ten (10) feet, except that unsupported roofs and sunscreens may project three (3) feet into the setback area; provided that is a single building which is constructed on two (2) or more Lots, (or if a Site on which a single building was originally constructed is further subdivided into two or more Lots in accordance with the provisions of Paragraph 5.02 of this Declaration) no side yard setback is required from interior Lot lines; provided further that, in any event, there shall be at least twenty (20) feet of open space between all buildings on the Property which area shall be a Side Yard Setback Area for the purpose of this Declaration. In the case of a corner lot, the street side setback shall be thirty (30) feet, except that unsupported roofs and sunscreens may project six (6) feet into the setback area. Interior Lot lines for a corner Lot shall be considered side Lot lines.
- c. Rear Yard Setback: No rear yard setback is required.
- d. Setbacks from Property bordering U.S. Highway 197 and State Road 14: All structures and buildings will be setback a minimum of fifty (50) feet from property boundaries fronting highways.

4.02 Site Positioning: Insofar as is feasible, all building and structures shall be positioned so as to present an attractive appearance to frontage streets. Special emphasis will be placed on sites within clear view of U.S. Highway 197 and State Road 14 to ensure that the site issued in such a way that no unsightly structures or material can be viewed from these major thoroughfares.

- 4.03** Number of Buildings Per Lot: For a period of five (5) years from the date of this Declaration, only one building, other than a parking structure to be used only as set forth in paragraph 4.02 of this Declaration, shall be erected on any one Lot, unless the erection and use of more or less than one building on any one Lot is specifically approved and consented to by Declarant in writing.
- 4.04** Number of Tenants per Building: For a period of five (5) years from the date of this Declaration, no building shall be occupied or used by more than two tenants or users simultaneously without the specific written consent of Declarant, nor shall more than two businesses be conducted simultaneously in any one building without the specific written consent of Declarant. The multiple occupancy and/or use of a building under this Paragraph does not change the character of the parcel, on which the building was constructed and the boundaries of which were used to determine compliance with this Declaration, as a Site for the purposes of this Declaration.
- 4.05** Signs: No sign shall be erected or maintained on the Property except in conformity with the following:
- a. Signs visible from the exterior of any building may be lighted, but no Signs or any other contrivance shall be devised or constructed so as to rotate, gyrate, blink or move in any animated fashion.
 - b. Signs shall be restricted to advertising only the person, firm, company or corporation operating the use conducted on the Site or the products produced or sold hereon.
 - c. All signs attached to the building shall be flush mounted.
 - d. Only one (1) single-faced or double-faced Sign shall be permitted per Street frontage. No Sign or combination of Signs shall exceed one (1) square foot in area for each six hundred (600) square feet of total Site area. However, no Sign shall exceed two hundred (200) square feet in area per face. An additional twenty (20) square feet shall be allowed for each additional business conducted on the site.
 - e. A Sign advertising the sale, lease, or hire of the Site shall be permitted in addition to the other Signs listed in this section. Said Sign shall not exceed a maximum area of thirty-two (32) square feet.
 - f. No ground Signs shall exceed four (4) feet above grade in vertical height. Also ground Signs in excess of one hundred (100) square feet in area (single face) shall not be erected in the first twenty (20) feet, as measured from the property line, or any street side setback area. However, the above standards shall not apply to the Community Directional Sign, Special Purpose Sign, Construction Sign, or Future Tenant Identification Sign.

- g. Wall Signs shall be fixture Signs; Signs painted directly on the surface of the wall shall not be permitted.
- h. A wall Sign with the individual letter applied directly shall be measured by a rectangle around the outside of the lettering and/or the pictorial symbol and calculating the area enclosed by such line.
- i. One (1) Construction Sign denoting the architects, engineers, contractor, and other related subjects, shall be permitted upon the commencement of construction. Said Sign shall conform to applicable zoning ordinances and regulations.
- j. A Future Tenant Identification Sign listing the name of future tenants, responsible agent or realtor, and identification of the Dallesport Industrial Complex shall be permitted. Said Sign shall conform to applicable zoning ordinances and regulations.
- k. Special Purpose Signs, used to give directions to traffic or pedestrians or give instructions as to special conditions, and Community Directional and/or Identification Signs, used to give directions and to identify areas within the Dallesport Industrial Complex, shall be in conformity with applicable zoning ordinances and regulations.

4.06 Parking: Each owner of a Site shall provide adequate off-street parking to accommodate all parking needs for the Site. The intent is to eliminate the need for any on-street parking.

Required off-street parking shall be provided on the Site of the use served, or on a contiguous Site or within six hundred (600) feet of the subject Site. Where parking is provided on other than the Site concerned, a recorded document shall be filed with the Declarant and signed by the owners of other alternate Site stipulating to the permanent reservation of the use of the Site for said parking.

The following guide shall be used to determine parking requirements:

Office: Three (3) spaces for each one thousand (1,000) square feet of total office space (excluding such areas as pedestrian corridors, rest rooms, elevator shafts, equipment areas).

Manufacture, Research and Assembly: Two (2) parking spaces for each three (3) employees, but in no event less than two (2) spaces for each one thousand (1,000) square feet of gross floor area.

Warehouse: Two (2) parking spaces for each three (3) employees, but in no event less than one (1) space for each one thousand (1,000) square feet of gross floor area for the first twenty thousand (20,000) square feet; one space for

each two thousand (2,000) square feet of gross floor area for the second twenty thousand (20,000) square feet; one (1) space for each four thousand (4,000) square feet of gross floor area for areas in excess of the initial forty thousand (40,000) square feet of floor area of the building. If there is more than one shift, the number of employees on the largest shift shall be used in determining parking requirements.

4.07 Landscaping:

- a. The Front Yard Setback Area of each Site shall be landscaped with an effective combination of street trees, trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. The entire area between the curb and a point ten (10) feet in back of the front property line shall be landscaped, except for any access driveway in said area.
- b. Side and Rear Yard Setback Areas not used for parking or storage shall be landscaped utilizing ground cover and/or shrub and tree materials.
- c. Landscaped areas as required in a. above shall be completed within six (6) months of building completion or as determined by agreement with the Port District.
- d. Areas used for parking shall be landscaped and/or fenced in such a manner as to interrupt or screen said areas from view from access Streets, freeways, and adjacent properties. Plant materials used for this purpose shall consist of lineal or grouped masses of shrubs and/or trees.
- e. All sites within clear view of U.S. Highway 197 and State Road 14 will have special attention paid to landscaping in the direction of these major thoroughfares. Where appropriate, trees and shrubs will be used to screen unsightly structures or materials from highway view.

4.08 Storage Areas: All outdoor storage shall be visually screened from access Streets, freeways, and adjacent property. Said screening shall form a complete opaque screen up to a point eight (8) feet in vertical height, but need not be opaque above that point. Outdoor storage shall be meant to include parking of all company owned and operated motor vehicles, with the exception of passenger vehicles. No storage shall be permitted between a frontage street and the Building Line.

4.09 Refuse Collection Areas: All outdoor refuse collection areas shall be visually screened from access Streets, freeways and adjacent property by a complete opaque screen. No refuse collection areas shall be permitted between a frontage Street and the Building Line.

- 4.10** Telephone and Electrical Service: All "on-site" electrical lines (excluding lines in excess of 12 KV) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from Streets and adjacent properties.
- 4.11** Nuisances: No portion of the Property shall be used in such a manner as to create a nuisance to adjacent Sites, such as but not limited to, vibration, sound, electro-mechanical disturbance and radiation, electro-magnetic disturbance, radiation, air or water pollution, dust emission of odorous, toxic or noxious matter.
- 4.12** Service Stations: No service station shall be constructed or operated on the Property.

ARTICLE V - PERFORMANCE STANDARDS

- 5.01** It is the intent of these regulations to prevent land or buildings, including those permitted by right or special exception, from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition; noise or vibration; smoke, dust, odor or other form of air pollution; electrical or other disturbance; glare or heat; liquid or solid refuse or wastes; condition conducive to the breeding of rodents or insects; or other substance, condition or elements (all referred to herein as "Dangerous or Objectionable Elements") in a manner or amount as to adversely affect the surrounding area. Any use permitted under Article III may be undertaken and maintained if it conforms to all district regulations including the regulations of this section referred to herein as "Performance Standards". Specifically, all uses shall operate in conformance with the limitations set forth in each subsection below:
- 5.02** Vibration: No vibration shall be produced which is transmitted through the ground and is discernable without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.
- 5.03** Noise: All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound-pressure level of noise radiated continuously from a facility at night-time exceed at the lot line the values given in Table I (set out hereafter) in any octave band of frequency. However, where the lot line adjoins or lies within twenty-five feet of the boundary of a residence district the sound-pressure levels of noise radiated at nighttime shall not exceed at the lot line the values given in Table II (set out hereafter) in any octave band of frequency. The sound-pressure level shall be

measured with a Sound Level Meter and an Octave Band Analyzer that conform to specifications published by the American Standards Association. INC., New York, New York, and American Standard Specification for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards, Inc., New York, New York shall be used).

TABLE I

Maximum permissible sound-pressure levels at the lot line for noise radiated continuously from a facility between the hours of 9 P.M. and 7 A.M.

<u>Frequency Band</u> <u>Cycles Per Second</u>	<u>Sound Pressure Level</u> <u>Decibels re 0.0002 dyne/cm²</u>
20-75	69
75-150	60
150-300	56
300-600	51
600-1,200	42
1,200-2,400	40
2,400-4,800	38
4,800-10,000	35

If the noise is not smooth and continuous and is not radiated between the hours of 9 P.M. and 7 A.M., one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given above in Table I.

TABLE II

Maximum permissible sound-pressure levels at a lot line for noise radiated continuously from a facility between the hours of 9 P.M. and 7 A.M. where the lot line adjoins or lies within twenty-five feet of the boundary of a residence district.

<u>Frequency Band</u> <u>Cycles Per Second</u>	<u>Sound Pressure Level</u> <u>Decibels re 0.0002 dyne/cm²</u>
20-75	65
75-150	50
150-300	43
300-600	38
600-1,200	33
1,200-2,400	30
2,400-4,800	28
4,800-10,000	26

If the noise is not smooth and continuous and is not radiated between the hours of 9 P.M. and 7 A.M., one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given above in Table II.

TABLE III

<u>Type of Operation in</u> <u>Character of Noise</u>	<u>Correction in Decibel</u>
Daytime operation only	plus 5
Noise source operates less than 20% of anyone-hour period	plus 5*
Noise source operates less than 5% of anyone-hour period	plus 10*
Noise source operates less than 1 % of anyone-hour period	plus 15*
Noise of impulsive character (hammering, etc.)	minus 5
Noise of periodic character (hum, speech, etc.)	minus 5

*Apply one of these corrections only.

5.04 Air Pollution:

- a. Definitions: The meaning of terms used in this subsection shall be the same as defined in Section 2.04.
- b. Visible emissions: There shall not be discharged into the atmosphere from any source any air pollutant in excess of the darkness limitations listed below. This shall include emissions of air pollutant of such capacity as to obscure an observer's view to a degree equal to or greater than do the visible emissions described below. Visible emissions of any kind at ground level past the lot line of the property on which the source of the missions is located are prohibited:

No.1 on the Ringelmann Chart at all times, except upon demonstration that the emission contains less than one tenth pound of particulate matter per thousand pounds of dry gases, adjusted to twelve per cents carbon dioxide or fifty percent excess air.

- c. Materials handling: No person shall cause or permit any materials to be handled, transported, or stored in a manner which allows or may allow particulate matter to become airborne.
- d. Particulate matter: There shall not be discharged into the atmosphere any particulate matter in excess of the quantities show below:

(1) From refuse-burning equipment, per one thousand pounds of dry gases, adjusted to twelve percent CO₂ or fifty percent excess air, sixty-five hundredths pound for capacities of two hundred pounds per hour or less and thirty hundredths pound for capacities of over two hundred pounds per hour. In any one hour period this shall not exceed two hundred fifty pounds. Refuse shall not be burned in fuel-burning equipment.

(2) From fuel-burning equipment, six tenths pound per million BTU in-input for installation using less than ten million BTU per hour total input. For installations using more than ten million BTU per hour total input, the allowable particulate emission, in pounds per million BTU, is determined by multiplying 8.58 times the input, in BTU per hour, raised to the minus 0.165 power ($E=8.58 \cdot 1^{-165}$).

- e. Threshold values: There shall not be discharged into the atmosphere any contaminant for which threshold limit values are listed for working atmosphere by the American Conference of Governmental Industrial Hygienists in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property shall at any time exceed the threshold limit.
- f. Gaseous emissions: Gaseous emissions shall be controlled by the provisions of Chapter 74, Section 5(d)(1) and (2) of this Code.

5.05 Odors: Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor.

5.06 Electromagnetic Radiation: The following standards shall apply:

- a. General: It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the Interdepartment Radio advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation. Further, said operation in compliance with the Federal Communications Commission or the Interdepartment Radio Advisory Committee regulations shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design, because of proximity, primary field, blanketing, spurious reradiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of "abnormal degradation in performance" and "of quality and property design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association. In case of any conflict between the latest standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Electronic Industries Association. Recognizing the special nature of many of the operations which will be conducted because of the research and educational activities, it shall be unlawful for any person, firm or corporation to operate or cause to be operated, to maintain or cause to be maintained, any planned or intentional sources of electromagnetic energy, the radiated power from which exceeds 1000 watts, without the express approval of the Director, Department of Inspection and Licenses. Further, it is required that any person, firm or corporation intending to operate or cause to be operated, to maintain or cause to be maintained, any planned or intentional source of electromagnetic energy, the radiated power from which exceeds 20 watts, shall file, at least 30 days prior to such operation, a description of the radiating device and the operating characteristics thereof with the Director, Department of Inspection and Licenses.

- b. Electromagnetic Interference: For the purpose of these regulations, electromagnetic interference shall be defined as electromagnetic disturbances which are generated by the use of electrical equipment other than planned and intentional sources of electromagnetic energy which interfere with the proper operation of electromagnetic receptors of quality and proper design. It shall be unlawful to operate or to cause to be operated by source of electromagnetic interference, the radiation or transmission from which exceeds the maximum values tabulated in tables shown below.

Section of Electromagnetic Spectrum (from-to)	Primary Intended Service	Maximum Field Strengths at Edge of Property Containing Interference Source.
10 Kilocycles--100 Kc.	Communications Service	500 microvolts/meter
100 Kc.--535 Kc.	Navigational Aids	300 microvolts/meter
535 Kc.--1,605 Kc.	AM Broadcasting	200 microvolts/meter
1605 Kc.--44 Megacycles	Various Communications Services	200 microvolts/meter
44 Mc.--88 Mc.	VHF Television--Airport Control	150 microvolts/meter
88 Mc.--174 Mc.	FM Broadcasting	200 microvolts/meter
174 Mc.--216 Mc.	VHF Television	150 microvolts/meter
216 Mc.--580 Mc.	Navigational Aids--Citizens Radio	250 microvolts/meter
580 Mc.--920 Mc.	UHF Television	300 microvolts/meter
920 Mc.--30,000 Mc.	Various	500 microvolts/meter

Section of Electromagnetic Spectrum (from-to)	Primary Intended Service	Maximum Voltage Measured Line to Line or Line to Ground Where Power or Telephone Lines Cross Edge of Property Containing Interference Source.
10 Kilocycles--100 Kc.	Communications Service	2.5 Millivolts
100 Kc.--535 Kc.	Navigational Aids	1.5 Millivolts
535 Kc.--1,605 Kc.	AM Broadcasting	1.0 Millivolts
1605 Kc.--44 Megacycles	Various Communications Services	0.5 Millivolts
44 Mc.--88 Mc.	VHF Television--Airport Control	0.25 Millivolts
88 Mc.--174 Mc.	FM Broadcasting	1.5 Millivolts
174 Mc.--216 Mc.	VHF Television	0.15 Millivolts
216 Mc.--580 Mc.	Navigational Aids--Citizens Radio	5.0 Millivolts
580 Mc.--920 Mc.	UHF Television	20.0 Millivolts
920 Mc.--30,000 Mc.	Various	150.0 Millivolts

- c. Method of measurement: For the purpose of determining the level of radiated electromagnetic interference, standard field strength measuring techniques shall be employed. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured field strength exceeds the maximum value tabulated for this spectrum section.

For purposes of determining the level of electromagnetic interference transmitted or conducted by power or telephone lines, a suitable, tunable, peak reading, radio frequency voltmeter shall be used. This instrument shall by means of appropriate isolation coupling, be alternately connected from line to line to ground during the measurement. The maximum value of the tabulation shall be considered as having been exceeded if any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section.

- 5.07** Fire and Explosion: All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with the Fire Prevention Code of Klickitat County.
- 5.08** Radioactive Materials: The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in the Title 10, Chapter One, Part 20 - Standards for Protection Against Radiation, as amended; and all applicable regulations of the State of Washington.
- 5.09** Glare and Heat: No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this ordinance. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.
- 5.10** Non-Radioactive Liquid or Solid Wastes: There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the Klickitat County Health Department, and the Department of Ecology of the State of Washington, as applicable.

ARTICLE VI - ADDITIONAL RESTRICTIONS

- 6.01** No Lot Splits: Each and Every parcel or site allocated to any individual client or firm shall consist of at least one whole and entire lot. No owner shall initiate action to reduce the size of any lot or further subdivide any lot within five years after sale or conveyance of the lot, and all lot splits must be approved by the Port Commission.
- 6.02** Sub-Leases: No property may be sub-let to a third party without specific written approval by the Port Commission.

ARTICLE VII - ENFORCEMENT

- 7.01** Abatement and Suit: Violation or breach of any restriction and covenant herein contained shall give to Declarant, and every other owner of property for whose benefit these restrictions and covenants are expressly made, the right to enter upon the property upon or as to which said violation or breach exists and to summarily abate and to remove, at the expense of the owner or lessee thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions and covenants to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.
- 7.02** Deemed to Constitute a Nuisance: The result of every action or omission whereby any restriction or covenant herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an owner, either public or private, shall be applicable against every such result and may be exercised by Declarant or by any owner of property for whose benefit these restrictions and covenants are made.
- 7.03** Attorney's Fees: In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provisions hereof, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.
- 7.04** Inspection: Declarant may from time to time at any reasonable hour or hours, enter and inspect any property subject to these restrictions to ascertain compliance therewith.
- 7.05** Failure to Enforce not a Waiver of Rights: The failure of Declarant or any other property owner to enforce any restriction herein contained shall in no event be deemed to be waiver of the right to do so thereafter nor of the right to enforce any other restriction or covenant.

ARTICLE VIII - TERM, TERMINATION AND MODIFICATION

- 8.01** Term: This Declaration, every provision hereof and every covenant and restriction contained herein, shall continue in full force and effect for a period of twenty-five (25) years from the date hereof, unless otherwise specifically provided.
- 8.02** Termination and Modification: This Declaration, or any provision hereof or any covenant or restriction contained herein, may be terminated, extended, modified

or amended, as to the whole of said property or any portion thereof, with written consent of the owners of sixty-five percent (65%) of the property specified in Exhibit "A" hereto based on the number of square feet owned as compared to the total number of square feet so specified, provided, however, that so long as Declarant owns at least twenty percent (20%) of the property specified in Exhibit "A" hereto, no such termination, extension, modification or amendment shall be effective until a property instrument in writing has been executed and acknowledged and recorded in the office of the Recorder of Klickitat County, Washington.

ARTICLE IX - MISCELLANEOUS PROVISIONS

- 9.01** Constructive Notice and Acceptance: Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of such property, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property.
- 9.02** Rights of Mortgagees: All restrictions and other provisions herein contained shall be deemed subject and subordinate to all mortgages and deeds of trust now or hereafter executed upon land subject to these restrictions, and none of said restrictions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust, provided, however, that if any portion of said property is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser of such sale, and his successors and assigns, shall hold any and all property so purchased subject to all of the restrictions, covenants and other provisions of this Declaration.
- 9.03** Mutuality, Reciprocity: Runs with Land: All restrictions, covenants and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every part and parcel of said property; shall create mutual, equitable servitudes upon each parcel in favor of every other parcel; and shall create reciprocal rights and obligations between the respective owners of all parcels of the Property and privity of contract and estate between all grantees of said parcels, their heirs, successors and assigns.
- 9.04** Paragraph Headings: Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.
- 9.05** Effect of Invalidation: If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

9.06 Addition of Territory: Declarant may at any time or from time to time during the pendency of these restrictions, add to the Property which is covered by this Declaration, and upon the recording of a notice of addition to territory containing the provisions set forth in Section 8.07 of this Article VIII, the covenants contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this Declaration; and thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the owners, lessees and occupants of parcels within the added land shall be the same as in the case of the original land.

9.07 The notice of addition to territory referred to in Section 9.06 of this Article VIII shall contain the following provisions:

- a. A reference to this Declaration, which reference shall state the date of recording hereof and the book or books of the records of Klickitat County, Washington, and page numbers, where this Declaration is recorded:
- b. A statement that the provisions of this Declaration shall apply to the added territory in the manner set forth in Section 8.06 of this Article VIII; and
- c. An exact description of the added territory.

9.08 Variance: Any requests for variance from the restrictions and covenants as contained in this document must be submitted in writing to the Port Commission. Variances may be granted only by formal resolution of the Port Commission in public meeting.