

SITE AND LANDSCAPE COVENANTS
FOR
BURGER KING AT ARBOR PLAZA P.U.D. (PHASE II)
Situate in the NE 1/4 of Section 2 TGNR 69
City of Fort Collins, County of Larimer,
State of Colorado

BURGER KING AT ARBOR
The undersigned, fee owner of PLAZA PHASE II P.U.D. (The Property) located in the City of Fort Collins, County of Larimer, State of Colorado, does hereby make the following declarations as limitations, restrictions and uses to which the Property may be put, and hereby specifies that these declarations shall constitute covenants to run with all of the Property and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future owners of all or part of the Property, this declaration being signed for the purpose of guaranteeing that the Property will be developed and landscaped initially and kept in desirable condition in the future as herein specified. "Owner" shall include the signator to this document and all successors or assigns of said signator.

The landscape improvements, parking areas, sidewalks, open spaces and site amenities including, without limitation, energy generation or conservation amenities, as described in the site and landscape plans submitted to the City of Fort Collins and on record therewith shall be made and installed in the manner as described in said plans unless amended pursuant to the approval of the City of Fort Collins. With the exception of lands necessary for construction, the owner shall cause the property to be developed according to the site and landscape plan submitted to and approved by the City of Fort Collins. It is further understood and agreed that the owner of the Property, or its assigns or successors in interest, shall be responsible for the maintenance and care (including necessary replacement of dead grasses, plants, trees or shrubs) of all "planted and landscaped" areas and other amenities within said P.U.D. together with all parking, sidewalks and open space areas and all areas otherwise utilized for buffering energy conservation or other site amenity. Should the owner fail in any respect to comply with the terms of this Agreement, the City of Fort Collins upon notifying said owner in writing of the matters in regard to which default is asserted and should the owner fail either to cure said default within thirty (30) days after receipt of such notice or to commence within twenty (20) days to rectify such default until it is fully rectified or cured, then the City of Fort Collins shall have the right (1) to obtain, in the District Court of Larimer County, Colorado, a mandatory injunction requiring rectification of the default, or (2) to enter upon said property and perform the work necessary to replace said improvements or maintain the same and the owner shall pay or cause to be paid to the City of Fort Collins such sums necessary to reimburse said City of Fort Collins for the labor and material expended to complete or maintain said improvements which payment shall be made within ten (10) days after receipt of billing. The sum due and unpaid shall accrue interest at the statutory rate for judgements from the date that such sum is due. If said

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billing is not paid, then the City of Fort Collins pursuant to the authority granted by these covenants, shall have a lien on the above described property and improvements thereto. Said lien to be exercisable by filing a notice of said lien against said property and improvements thereto; provided, however, that the City of Fort Collins shall not have a lien against any single-family lots and improvements thereto within the Property, if applicable. The City of Fort Collins shall be entitled to all rights of foreclosure or other remedies existing pursuant to Colorado law for enforcement of liens against real property and may also, at its discretion, without waiving any other rights it may have pursuant to law, proceed directly with legal action against the owner, its assigns or successors in interest, to collect payment of the reasonable amounts so expended pursuant to the terms hereof.

The undersigned, its successors and assigns, hereby expressly reserve the right, with the consent of the City of Fort Collins, Colorado, to amend or restate these Covenants, by including the provisions contained herein within the Protective Covenants for the real property platted as "The URGER KING AT ARBOR PLAZA PHASE II P.U. Which real property shall include the property subject to these Covenants.

DATED this 23rd day of October, 1986

Owner

By David Lee Nelson
Title Vice President - ~~KROH~~ BROTHERS DEVELOPMENT CO.
David L. Nelson

ATTEST:

Carl LaSalla
Vice President
Carl LaSalla

STATE OF COLORADO)

)ss

COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 23rd day of October, 1986, by David Lee Nelson as Vice President and Carl LaSalla as Secretary of Kroh Brothers Development Company

My Commission expires: Jan 19, 1990

Witness my hand and official seal.

Debra L. Beck
Notary Public

