

BY-LAWS
OF
EATON FREEWAY INDUSTRIAL PARK
PROPERTY OWNERS ASSOCIATION

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ARTICLE I

OFFICES

Section 1. NAME. The name of the non-profit corporation is EATON FREEWAY INDUSTRIAL PARK PROPERTY OWNERS ASSOCIATION, herein referred to as the "Association".

Section 2. OFFICES. The principal office of the corporation shall be in Tempe at a location established by the Board of Directors; but meetings of members and Board of Directors may be held at such places within the State of Arizona, County of Maricopa, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Eaton Freeway Industrial Park Property Owners Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described at page one (1) in the Articles of Incorporation and at page six (6) in the Declaration of Restrictions thereon, and such additions and amendments thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Special Property" shall mean lots four (4), one hundred twenty six (126), and one hundred twenty seven (127). These lots were excluded from the restrictions for I-1 and I-2 land due to PSC zoning for shopping center because of inapplicability; however, paragraph 1.04 of the Declaration of Restrictions covers every owner of property within Eaton Freeway Industrial Park as being a member of the Property Owners Association. Therefore, the owners of special property are extended full rights and responsibility of Association membership.

Section 4. "Common Area" shall mean all real property owned by the Association and those areas owned by the City of Tempe within the street right-of-way for entry islands, for the common use and enjoyment of the members of the Association.

Section 5. "Lots" shall mean and refer to the numbered plots of land shown upon the recorded subdivision map of the Properties with the exception of the common or public areas. Also lots 126 and 127, when re-zoned from PSC to A-1 have taken the status of regular lots and have been re-subdivided into ten (10) lots and each of the ten shall have the same status of lots 1 through 125.

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ARTICLE II - DEFINITIONS (Cont'd)

Section 6. "Member" shall mean and refer to every person or entity who holds title to a lot and thus holds a membership in the Association.

Section 7. "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the 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 8. "Declarant" shall mean and refer to Transamerica Title Company as Trustee for Eaton International Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 9. "Board" shall mean the Board of Directors of the Eaton Freeway Industrial Park Property Owners Association.

Section 10. "Declaration" means the Declaration of Restrictions for the Eaton Freeway Industrial Park as recorded in Docket 10609, pages 912-953; and as the same may be supplemented or amended from time to time.

ARTICLE IIIPURPOSES-POWERS

Section 1. PURPOSES. The purpose of this Association and the general nature of business shall be:

- (a) to oversee the design and development of the Properties by members and to fulfill the function of the Development Control Committee established in the Declaration to review plans;
- (b) to establish control of the environmental protection; the landscaping and general appearance, and the up-keep of Properties by members; and through committee, to provide protection and promotion of the general welfare of the Eaton Freeway Industrial Park;
- (c) to provide for the improvement and maintenance of common or public areas as may be assigned to it or be properly obtained by the Association;
- (d) to assess or solicit funds to accomplish purposes herein.

Section 2. POWERS. The Association shall have the powers:

- (a) as set forth in its Articles of Incorporation; and those which are granted to it under recorded Declaration; and those granted by law;
- (b) to take any and all necessary action to require or compel members or occupants of property to fulfill promises, representations and agreements especially in regard to restriction requirements;

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ARTICLE III - PURPOSES-POWERS (Cont'd)

- (c) to lease, contract for, and otherwise make provision to have property cared for;
- (d) to acquire, own, operate, maintain; hold real, personal, and mixed property of all kinds; and to sell, mortgage, or otherwise dispose of the same when such practices are in keeping with the general welfare of the Association or Properties.

ARTICLE IVMEMBERSHIP

Section 1. MEMBERS. As stated in paragraph 1.04 of the Declarations, every owner shall be a member of the Association, and membership shall be appurtenant to and not be separate from ownership of any lot. Further:

- (a) ownership of such lot shall be the sole qualification for membership;
- (b) purchasers through escrow or contract agreement shall be considered "Owners" at such time escrow papers have been signed by all parties and recorded by Trustee, and "Owners" status shall remain as long as contract payments are not delinquent and until Association is notified in writing by standard proof of receipt of notification;
- (c) all owners shall be Class A Members; Class B Members have ceased as such;
- (d) An entity such as a corporation, a joint venture, a syndicate, or other record owner of a fee interest in any lot shall be considered the owner of said lot. The foregoing is not intended to include those who hold an interest merely as security for the performance of an obligation.

Section 2. VOTING OF THE MEMBERSHIP. Subject to the provisions of ownership and membership:

- (a) each member entitled to vote shall be entitled to one vote for each lot or parcel owned;
- (b) lots 126 and 127 in the Declaration, not included in the Restrictive Covenants for I-1 and I-2 lots and referred to as "Special Property" herein, were re-zoned and divided prior to the Association incorporation and shall be considered as ten (10) parcels for voting rights;
- (c) when lots or parcels other than original lots 126 and 127 have been split in ownership, all such persons shall be members of the Association and the vote for such lot shall be exercised proportionally, or as they among themselves determine; however, no more than one vote shall be cast with respect to any lot or parcel;

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ARTICLE IV - MEMBERSHIP (Cont'd)

- (d) memberships that stand in the name of another corporation or association may be voted by such officer as such entity shall designate, upon notice of such designation given in writing to the Association;
- (e) membership held by an administrator, executor, guardian, conservator, receiver or trustee may be voted by such person without a transfer of such membership into his name, upon satisfactory evidence in writing to the Board, of the persons right to vote for the recorded lot owner;
- (f) at any election of Directors to the Board, voting shall not be cumulative, but shall be for the nominated slate as a whole; however, individuals may be scratched and write-ins may be added in lieu of one or more nominees that a member would wish to delete or vote for.
- (g) any action required to be taken by the members shall be voted upon by "mail ballot" setting forth clearly and in detail the reasons for the action to be taken; along with a report of the previous action taken by the Board on the matter and the names of Directors voting for and against the matter being presented to the membership; action of the members shall be the favorable vote by at least 50% of the votes eligible to be cast;
- (h) members shall have the right to initiate matters to the Board and request the item be voted on by the Board. If the Board action is unfavorable, members shall have the right to request the matter be presented to the membership for vote at the next election of the Board.
- (i) during any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights of such members may be suspended by the Board until such assessment has been paid.

Section 3. PRIVILEGES AND DUTIES OF MEMBERS. Members have the privilege of association with all other property owners in having their place of business in one of the outstanding industrial atmospheres in the greater Phoenix-Tempe area. Members have the privilege to vote in the selection of those who will direct the cooperative effort (Association) and on other matters delegated to the vote of members. Members have the privilege to review by vote, changes in the By-laws made during each year by the Board.

Members have the duty to cooperate with the regulations set forth by the Articles of Incorporation, the Declaration, these By-laws, and the authoritative actions of the Board, including the duty to make prompt payment of any and all assessments so that the Association has operating funds.

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ARTICLE V
BOARD OF DIRECTORS

Section 1. NUMBER. The affairs of this Association shall be conducted by a Board of Directors consisting of nine (9) members which shall annually elect from its membership the officers (see Article VI). The office of Secretary and Treasurer may be a combined office. The number of Directors may be increased or decreased in accord with Article IX of the Articles of Incorporation, by a majority vote of the whole Board of Directors; however, such change in number shall be acted upon for confirmation by the members of the Association at the next election of the Board.

Section 2. TENURE. The initial Board of Directors shall hold office until the election of their successors for the following term as follows:

- (a) three (3) of these Directors will serve until the beginning of the calendar year following one year of service at which time three (3) Directors will be elected;
- (b) three (3) of these Directors will serve until the beginning of the calendar year following two (2) years of service at which time three (3) Directors will be elected; and
- (c) three (3) of these Directors will serve until the beginning of the calendar year following three (3) years of service at which time three (3) Directors will be elected. The members annually thereafter shall elect three (3) Directors, each to serve three (3) years. Any Director then serving on the Board may be elected to serve continuing terms.

Section 3. QUALIFICATIONS. Directors shall be either members of the Association or direct representatives of members. If representatives, they shall be in one of the following categories:

- (a) the designated representative of a corporate or similar entity who itself is a member;
- (b) the designated representative of a member when such person was nominated and properly elected to the Board.

Section 4. REMOVAL. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the whole Board.

Section 5. COMPENSATION. No Directors shall receive compensation for any service or personal expense that may be rendered to the Association. However, any Director may be reimbursed for actual expense incurred and purchases made, at the direction or authorization of the Board.

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ARTICLE V - BOARD OF DIRECTORS (Cont'd)

Section 6. MANNER OF ACTING. A quorum of the Board shall be six (6) members. The act of the majority of Directors present at a meeting where a quorum is present shall be the act of the Board. When less than a quorum of the Board is present, the favorable vote of a majority of the whole Board shall be the act of the Board.

Section 7. ACTION TAKEN WITHOUT A MEETING. Any action required of the Board of Directors may be taken without a meeting and shall be the act of the Board if a consent thereto in writing setting forth the action so taken shall be signed by a quorum of the Board and the action taken have the approval of a majority of the whole Board.

Section 8. VACANCIES. Any vacancies occurring in the Board may be filled by the affirmative vote of a majority of the remaining Directors even though less than a quorum of the Board be present. If the term of the replaced Director has not been completed, the term of the new Director will be the remainder of the incomplected term.

Section 9. MEETINGS. The Board of Directors shall meet after the vote of the membership is determined to elect officers; and thereafter as deemed necessary on call of the President or upon call by any two (2) Directors, after not less than three (3) days notice to each Director. The Board shall take no action in conflict with the By-laws or Articles of Incorporation of this Association or in conflict with the recorded Declaration.

Section 10. POWERS. The Board of Directors shall have power to:

- (a) amend these By-laws by a majority vote of the whole Board;
- (b) adopt and publish rules and regulations governing standards of environmental care of the Property;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant when such action is requested by resignation or Board action;
- (e) employ a manager, independent contractors, or such other employees as they deem necessary and to prescribe their duties;
- (f) to establish a lawn and landscape service if and at such time an Association operated service would in the end result benefit most members.

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ARTICLE V - BOARD OF DIRECTORS (Cont'd)

Section 11. DUTIES. It shall be the duty of the Board of Directors to:

- (a) cause to be kept complete record of its acts and corporate affairs and to provide reasonable information to members in the form of an annual report;
- (b) supervise all officers, agents, and employees of this Association and to see that their duties are properly performed;
- (c) as more fully provided herein and in the Declaration, to fix the amount of the annual assessment against each lot at least thirty (30) days in advance of annual assessment period; and to send notice to each member subject thereto;
- (d) procure and maintain adequate liability and hazard insurance on any property owned by the Association;
- (e) cause all or any officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (f) cause the common and public area to be maintained;
- (g) cause the exterior of constructed premises to be maintained by the owners thereof (except if Association establishes its own landscape operations) in accordance with the provisions of the Declaration;
- (h) designate a banking institution as the depository for the Association funds.
- (i) to borrow funds necessary to overcome operational fund deficit.

ARTICLE VI
THE OFFICERS

Section 1. OFFICERS. The officers of the Association shall be the President, Vice President, Secretary, and Treasurer. The Secretary and Treasurer may be a combined office at the pleasure of the Board. Other special officers may be as created by the Board for such reason and time as the Board may authorize.

Section 2. PRESIDENT. The President shall be the general managerial officer of the Association and preside at all Board meetings; shall see that all orders and resolutions of the Board are carried out; shall sign any and all written instruments in behalf of the Association and shall co-sign checks along with the Treasurer; shall be an ex-officio member of all committees.

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ARTICLE VI - THE OFFICERS (Cont'd)

Section 3. VICE PRESIDENT. The Vice President shall assist the President and perform the duties in the absence of the President or in the inability or refusal to act when directed by the Board; and shall exercise and discharge such other duties as may be required of the office by the Board.

Section 4. SECRETARY. The Secretary of the Association shall keep all records and actions of the Association members; and record of all actions of the Board of Directors and shall keep a file of such available to all Directors. Secretary shall mail all notices to members required under these By-laws; mail all assessment invoices to members and maintain an up-to-date list of the members and their addresses; and perform all other duties incident to the office of Secretary. Secretary shall keep historical accounting records on each members transactions with the Association. Secretary shall furnish upon demand by any person or entity it appears reasonable to request the information and for a reasonable charge, a letter setting forth whether or not any assessment remains unpaid against any specific lot.

Section 5. TREASURER. The Treasurer shall have custody of the funds of the Association, collect monies due, pay obligations of the Association out of its funds, serve on the budget committee, prepare periodic statements as directed by the Board, and perform such other duties as are incident to the office. The Treasurer shall co-sign with the President checks for disbursement of funds. Bonding of the Treasurer shall be as determined by the Board. The Depositary for Funds shall be as approved by the Board upon recommendation of the Treasurer.

Section 6. REMOVAL OF OFFICERS. Any officer may be removed when in the judgement of a majority of the whole Board, the best interest of the Association will be served by such removal.

ARTICLE VII
COMMITTEES

Section 1. The Board of Directors shall select all committees listed in these By-laws and other committees as deemed appropriate in carrying out its purposes. Committee Chairman shall be Directors; however, committee members may be either Directors or members of the Association. The Board may direct the President to make some appointments to the committees. The President may create and appoint temporary committees; and shall select the chairman of all committees not named by the Board or set forth by these By-laws.

- (a) Development Control Committee. This committee shall be comprised in accord with Article I, paragraph 1.10 of Declarations. The primary function of this committee is to review plans, and when acceptable in accord with Declarations, grant approval for construction. The Vice President of the Board shall be Chairman of the Committee.

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ARTICLE VII - COMMITTEES (Cont'd)

This committee shall consist of a totle of five (5) including the Chairman and the President of the Board. The adoption of these By-laws shall satisfy the requirement of Declaration for transfer of power from Developer to Association.

- (b) Environmental Control Committee. This committee shall have the primary function of keeping constant vigil on the upkeep of each members premises, especially in regard to landscaping and attractiveness. It shall be comprised of not less than five (5) members including the Association President as ex-officio. Actions are intended to be by cooperation of members. The committee shall meet with any member who apparently is not maintaining the standards required in the Declaration. Uncorrected insufficiency, after a personal or written notice to member, shall be reported to the Board, which shall take such action as is set forth in the Declaration, and by the powers of these By-laws.

At any time that weed growth on undeveloped lots attain an unacceptable condition in the opinion of this committee or by order of Tempe, this committee shall have such weed growth satisfactorily removed by discing or other procedure, and the member/owner of such lot shall be invoiced by the Association for its actual cost of such weed removal, including cost of invoicing and mailing.

This committee shall observe and enforce performance of the Declaration regarding signs.

This committee shall advise the Board on matters pertaining to maintenance of property, on the repair or improvement of any property owned by the Association, and shall perform such other function of maintaining the high standard of the property as the Board at its discretion determines.

At such time, if and when, as the Board determines and the membership concurs, an Association-operated landscape service program is established (the Declaration provides for this landscape care by the Association), this committee shall be responsible for the management of such program. However, until established by a change in these By-laws, each member shall be responsible for its own full landscape maintenance and other matters covered by the Declaration wherein the Association through the Board of Directors has responsibility to require maintenance up to established standards.

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ARTICLE VII - COMMITTEES (Cont'd)

- (c) Nominating Committee. Nominations and ballot for election to the Board of Directors to replace annually expiring Directors shall be made by Nominating Committee consisting of not less than three (3) members. The chairman shall be a member of the Board whose term is not ending. Other committee members may be members or Directors.

The Nominating Committee shall be appointed by the Board not less than ninety (90) days prior to the Annual Meeting date of the last Saturday in November. The Nominating Committee shall prepare a ballot listing as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from among members qualified under Article V of these By-laws, and may include those members whose term is then expiring as Directors.

Ballots shall be mailed to all members at their last known address not less than thirty (30) days before the day of the Annual Meeting date - the last Saturday in November. Ballots and election shall be reviewed and determined at that Annual Meeting.

Nomination requests from members received during the year shall be included on the ballot. Also on ballot shall be space for write-in nominations. If such write-in nominees receive a vote equal to a majority, he shall be elected; and if not, by being a write in, shall be placed on next year's ballot if still available to serve.

ARTICLE VIIIASSESSMENTS

Section 1. PURPOSE. Assessments made by the Association to members are to conform with Article I, paragraph 1.06 of Declarations; and shall be used exclusively for the purpose of promoting the welfare of the members; in particular for the maintenance and improvement related to the common area and administrative costs.

Section 2. DATE OF COMMENCEMENT. The annual assessment provided for herein shall commence as to all lots on the first day of the calendar year. The due date for payment shall be January 31st of each year and shall be for the year in advance so that funds will be available to operate.

Section 3. RATE AND AMOUNT. The rate and amount of annual assessment shall be determined by the Board. The amount of the assessment shall be the approximate pro-rata portion of the amount required, determined by budget, for the maintenance, replacement, repair and improvement of the common area divider strips located in the entry roadways; the maintenance and repair of identification signs; and the Association costs of billing, collection and administration.

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ARTICLE VIII - ASSESSMENTS (Cont'd)

Section 4. PRORATION OF ASSESSMENT. The pro-rata share to each lot shall be based upon the ratio of the square foot area of such lot to all lots comprising the property.

Section 5. MEMBERS LANDSCAPING. The Association shall not at this time perform landscaping services for members premises even though provided for in Declarations and there shall be no assessment in this regard made to members.

Section 6. EXCESS CARRY FORWARD. No part of any excess of assessment for a given year over the actual maintenance and operating expense of the Association shall inure to the benefit of any single member nor be refunded, but shall carry forward to the following year.

ARTICLE IXCORPORATE SEAL

The Association, if required by law, shall have a seal in circular form, having written its circumference the words "Eaton Freeway Industrial Park Property Owners Association, Arizona Incorporated, Corporate Seal".

ARTICLE XAMENDMENTS

Section 1. These By-laws may be amended at a regular or special meeting of the Board of Directors, by a vote of a majority of the whole Board; and such amendment shall be valid the remainder of the year. Any change in By-laws shall be submitted to the membership along with the ballot for the election of Directors, and if not sustained by the majority of members, the change shall void.

Section 2. Any change suggested by any member in writing to the President will be considered by the Board and its action presented to the members at next voting on Directors.

Section 3. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

ARTICLE XIMISCELLANEOUS

Section 1. The fiscal year of this Association shall begin on the First (1st) day of January and end on the Thirty-First (31st) day of December of every year except that the first year shall begin on the date of incorporation and shall end on December 31, 1981, even though this might be over a twelve-month period.

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ARTICLE XI - MISCELLANEOUS (Cont'd)

IN WITNESS WHEREOF, WE, being all the Directors of the Eaton Freeway Industrial Park Property Owners Association, have hereunto set our hands this _____ day of _____, 1980.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the Eaton Freeway Industrial Park Property Owners Association, an Arizona Non-Profit Corporation and

THAT THE FOREGOING By-laws constitute the original By-laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the _____ day of _____, 1980.

IN WITNESS WHEREOF, I have hereto subscribed my name this _____ day of _____, 1980.

Secretary