

ARTICLE 9

USE RESTRICTIONS

9.1 **Rules and Regulations.** The Association has authority to promulgate and enforce such Rules and procedures as may aid the Association in carrying out any of its functions or to ensure that the Project is maintained and used in a manner consistent with this Declaration and the Bylaws.

9.2 **Use.** Units shall be occupied and used only as a private single-family residence. Common Areas are to be used in a manner consistent with their community nature and use restriction.

9.3 **Signs.** No signs shall be erected or maintained in the Project, except as provided by the Board or otherwise allowed in this Declaration.

9.4 **Nuisance.** No noxious, illegal, or offensive activity shall be carried on upon the Project, nor shall any activity that might be or become an annoyance or nuisance to other Owners or Occupants be permitted to interfere with their rights of quiet enjoyment, increase the rate of any insurance, or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule, or regulation of any local, county, state, or federal body. Any violation of the Project Documents shall be deemed a nuisance.

9.5 **Temporary Structures.** No structure or building of a temporary character, including a tent or shack, shall be placed upon the Project or used therein unless the same and its proposed use are approved by the Board of Directors.

9.6 **Parking.** Parking is prohibited on the streets, unless otherwise designated by the Board and allowed by applicable law. Each Unit has a 1-car garage and Limited Common Area driveway for the parking of vehicles. Vehicles shall not be parked at any location within the Project, which would impair vehicular or pedestrian access, or snow removal. Undesignated parking stalls shall be subject to and governed by Association Rules. The Board may adopt Rules relating to the size and dimensions of the vehicles parked within the Project; relating to the admission and temporary parking of vehicles within the Project; and the use of the undesignated parking spaces identified on the Plat, if any, the right to remove or cause to be removed any vehicles that are improperly parked, the time visitor spaces may be used and the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such Rules.

9.7 **External Fixtures.** No external items such as, but not limited to, television and radio antennas, satellite dishes, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, exterior doors, screen doors, porch or patio or balcony enclosures, sunshades, lighting fixtures, walls, windows, skylights, landscaping and planting, other than those provided in connection with the original construction for the Condominium Project, and any replacements thereof, and other than those approved by the Board of Directors, and any replacements thereof, shall be constructed, erected or maintained on the Condominium Project without the prior written approval of the Board. The Board of Directors may adopt Rules regulating the location, type, color, and design of those external fixtures. Any damage caused by the installation of any external fixture to the Common Area (including roofs and exterior surfaces) shall be repaired by

the Association, but the Association may assess such repair costs as an Individual Assessment (see Article 6) against the Owner who is responsible for installing the external fixture, regardless of whether such fixture was approved in advance by the Board of Directors.

9.8 **Window Covers.** No window shall be covered by paint, grease, blankets, rugs, foil, sheets, towels, newspaper, or similar items. The Board of Directors may adopt Rules regulating the type, color, and design of the external surface of window covers. All window coverings shall be installed within (1) month of moving into a Unit.

9.9 **Repairs.** No repairs of any detached machinery, equipment, or fixtures, including without limitation, motor vehicles, shall be made upon the Project, unless such work is done within the Unit's garage.

9.10 **Unsightly Items.** All rubbish, debris, or unsightly materials or objects of any kind shall be regularly removed from Units and Limited Common Areas and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited in any Unit and Limited Common Area unless obscured from view of adjoining Units and Common Area. Trash and garbage shall be properly disposed in accordance with the Rules applicable and thereto adopted by the Board of Directors.

9.11 **Pets.** One (1) domestic pet per Unit is allowed. No pets, animals, livestock, or poultry of any kind shall be bred in, on, or about the Project. The Board may adopt Rules adding further restrictions related to pets not inconsistent with this Declaration including but not limited to requirements for registration and the use of leashed and noise barking limitations. All pets must be registered in advance with the Association. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Rules adopted by the Board of Directors from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Limited Common Area of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it molests or harasses a passerby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area and shall be leashed whenever outside the Unit.

9.12 **Leases.** The leasing of Units is permitted. Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "lease") shall be in writing, a copy of which shall be provided to the Board along with the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. No Owner shall be permitted to lease his/her Unit for transient, hotel, or seasonal purposes. All leases shall be for an initial term of no less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his or her entire Unit. All leases shall provide that the tenant is subject to and shall abide by the Project Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within ten (10) days after delivery of written notice of the creation of a nuisance or violation of the Project Documents, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. In the event that the Owner fails to act accordingly, the Board may initiate eviction

proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so.

9.12 Leasing and Non-Owner Occupancy. Notwithstanding anything to the contrary in the Declaration or Bylaws, any leasing and Non-Owner Occupancy of a Unit shall be governed by this Section and any rules and procedures adopted as allowed in this Section.

(a) Definitions. For the purpose of this Section:

(i) "Non-Owner Occupied Unit" means:

(1) For a Unit owned in whole or in part by a natural individual or Individuals, the Unit is occupied by someone, but no individual Owner occupies the Unit as the individual Owner's primary residence; or

(2) For a Unit owned entirely by one or more entities or trusts, the Unit is occupied by anyone.

(ii) "Family Member" means:

(1) The spouse, parent, sibling, or child of an Owner; or

(2) In the case of a Unit owned by a trust or other entity created for estate planning purposes, a Person occupying the Unit if the trust or other estate planning entity that owns the Unit was created for the estate of (i) the current Occupant of the Unit, or (ii) the spouse, parent, child, or sibling of the current Occupant of the Unit.

(b) Maximum Number of Non-Owner Occupied Units. The number of Units permitted to be Non-Owner Occupied shall not exceed fifty percent (50%) of the total Units within the Association. The fifty percent (50%) Unit maximum shall be calculated by including any grandfathered Units and those exempted Units under subsection (d) below. The Board may adopt reasonable rules and reporting procedures to track the number of Non-Owner Occupied Units to ensure consistent administration and enforcement of the leasing restrictions.

(c) Requirements for Leasing and Non-Owner Occupancy. The Owners of all Leased or Non-Owner Occupied Units must comply with the following provisions:

(i) Any lease or agreement for otherwise allowable Non-Owner Occupancy must be in writing, must be for an initial term of at least six (6) months, and shall provide as a term of the agreement that the Occupant shall comply with the Governing Documents and that any failure to comply shall be a default under the lease agreement. If a lease agreement for Non-Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease agreement and binding on the Owner and the Occupant.

(ii) A Non-Owner Occupant may not occupy any Unit for transient, short-term (less than six months), hotel, resort, vacation, Airbnb, or seasonal use (whether for pay or not). Except as a guest of an Owner, daily and weekly occupancy by Non-Owner Occupants is prohibited (whether for pay or not).

(iii) No Owner may lease less than the entire Unit unless the Owner resides in the Unit.

(iv) The Board is authorized to adopt further rules related to Non-Owner Occupied Units and the Occupants of those Units. Such rules may include, but are not limited to: requiring copies of lease or other agreements for Non-Owner Occupancy to be delivered to the Association, requiring informational forms to be filled out by Owners and/or Occupants' identifying Non-Owner Occupants, vehicles, phone numbers, etc., or any other reasonable administrative provisions it deems appropriate to enforce the requirements of this Section and the Governing Documents.

(d) Exemptions. The following Units may be Non-Owner Occupied and are not subject to the cap on Non-Owner Occupied Units set forth in subsection (b) above:

- (i) A Unit being rented at the time this First Amendment is recorded in the Salt Lake County Recorder's office shall be grandfathered and permitted to lease or allow a Non-Owner Occupant to reside in the Unit until: (i) the Unit Owner occupies the Unit, or (ii) the ownership of the Unit, as evidenced by the records at the County recorder, changes in any way. Upon a change of ownership or occupation by an Owner, the Unit's qualification for this exception irrevocably terminates.
- (ii) A Unit owned by a Person in the military for the period of the Owner's deployment.
- (iii) A Unit occupied by a Unit Owner's spouse, parent, child, or sibling.
- (iv) A Unit whose Owner is relocated by the Owner's employer for a period of no less than two (2) years in accordance with Utah Code § 57-8-10.1(2)(a)(III) as amended.
- (v) A Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for: (1) the estate of a current Occupant of the Unit; or (2) the parent, child, or sibling of the current Occupant of the Unit.

(e) Joint and Several Liability of Owner and Non-Owner Occupants. The Owner of a Unit shall be responsible for the Non-Owner Occupant's or any guest's compliance with the Governing Documents and shall be jointly and severally liable for any violations thereof.

(f) Violations.

- (i) If a Unit is leased in violation of this Section, the Board may assess fines against the Owner pursuant to a schedule of fines adopted by the Board.
- (ii) If a Unit is leased in violation of any provision of this Section, (regardless of whether any fines have been imposed) the Board may proceed with any available legal remedies, including, without limitation, an action to require the Owner to terminate the lease agreement and remove the tenant.
- (iii) If the Board determines that a Non-Owner Occupant has violated a provision of the Governing Documents, the Board may require an Owner to terminate a lease agreement with such Occupant.
- (iv) In addition to any other remedy for non-compliance, after reasonable notice, the Association shall have the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subsection and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subsection.
- (v) Fines, charges, and expenses incurred in enforcing the Association's Governing Association in connection with any action under this Section, including reasonable attorney fees (regardless of whether any lawsuit or other action is commenced), shall be an individual assessment against the Owner and Unit which may be collected and foreclosed on by the Association.

9.13 **Landscape Maintenance.** The Association shall have the right and duty to maintain and the right to alter and change any and all landscaping in the Common Area. The Association shall have the right of access to all Common Area and Limited Common Area of the Condominium Project as necessary for such landscape maintenance. If the Association is unable to enter into a

Limited Common Area for landscape maintenance, then the Owner shall be responsible for such maintenance.

- 9.14 **Floor Load.** There shall be no floor load in excess of the weight for which the Unit or balcony was designed, unless special arrangements are made, and an engineering determination of floor load capacity in the areas of the heavy use is approved in writing by the Board of Directors. This includes, but is not limited to, the use of waterbeds, or Jacuzzi hot tubs.
- 9.15 **Residential Occupancy and Commercial Activity Limits.** No business use and trade may be conducted in or from any Unit unless:
- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit;
 - (b) the business activity conforms to all zoning requirements for the Project;
 - (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project;
 - (d) such business is legal within the meaning of all applicable statutes of the state of Utah and all ordinances of municipal authorities; and
 - (e) the business activity is consistent with the residential character of the Project and does not constitute a nuisance a, or a hazardous or offensive use, or threaten the security or safety of other residents, as may be determined in the sole discretion of the Board of Directors.
 - (f) Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section.
- 9.16 **No Subdivision of Units or Further Restrictions.** No Unit shall be split, subdivided, or separated into two (2) or more Units, and no Owner of a Unit shall sell part of a Unit. No subdivision plat or covenants, conditions or restrictions shall be recorded by any Owner or other Person with respect to any Unit unless the Board of Directors has first approved the plat or the proposed covenants, conditions, or restrictions, such approval to be evidenced by the Association's signature on the final recorded plat or instrument imposing the covenants, conditions, or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section shall be absolutely null and void. The Board of Directors review shall be for the purpose of assuring, in the sole and absolute discretion of the Board of Directors, that the plat or covenants, conditions and restrictions are consistent and compatible with the overall plan of development of the Property. However, in no event shall the approval of the Board of Directors of any plat or covenant, condition or restriction be an abandonment or waiver of any provision of this Declaration. The provisions of this Declaration shall be and remain superior to any such plat or covenants, conditions, or restrictions except to the extent they defer to the Plat.
- 9.17 **Architectural Control.** No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Board of Directors or any committee established by the Board of Directors for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, repairs, excavation, patio covers, screens, windows, doors, fences, window air conditioners, fireplaces, skylights, storage buildings, solar collectors, shade screens, awnings, window coating or tinting, decorative alterations, or other work that in any way alters the exterior appearance of the Property. The Board may designate the design, color, style, model, and manufacturer of any exterior improvement or alteration that is acceptable. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior

structural changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Board of Directors, or any committee established by the Board. Any structural change may be denied by the Board, or the Board may require the Owner to provide an engineering report demonstrating, in the discretion of the Board, that the structural changes will be constructed in a way to prevent any impact on the building or other Units. By way of illustration, but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, and the like.

9.18 **Lighting.** Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board of Directors.

9.19 **Unit Heating.** Owners shall heat Units no less than fifty-degrees (50° F) at all times to prevent pipes from freezing.

9.20 **Hazardous Substances.**

(a) The Owners shall comply with applicable environmental laws (as defined below), and shall not cause or permit the presence, use, disposal, storage or release of any hazardous substances (as defined below), on or within the Condominium Project that are not properly controlled, safeguarded, and disposed of. The Owners shall not do, nor allow anyone else to do, anything affecting the Condominium Project that is in violation of any environmental law. The preceding two sentences shall not apply to the presence, use or storage on the Condominium Project of small quantities of hazardous substances that are generally recognized to be appropriate to maintenance of a Unit or the Condominium Project.

(b) Each Owner shall indemnify, defend and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment; or any other injury or damage resulting from or relating to any hazardous substances located under or upon or migrating into, under, from or through the Condominium Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) whether or not the release of the hazardous substances was caused by an indemnifying Owner, a tenant, invitee or otherwise of an indemnifying Owner; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of hazardous substances on the Condominium Project. The obligations of each Owner under this Section shall survive any subsequent sale by an indemnifying Owner.

(c) As used in this Section, "hazardous substances" are those substances defined as toxic or hazardous substances by environmental law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this Section "environmental law" means federal laws and laws of the jurisdiction where the Condominium Project is located that relate to health, safety, or environmental protection.

9.21 **Smoke and Carbon Monoxide Detectors.** Each Unit shall have an operable Smoke and Carbon Monoxide Detector as required by building code. The Board of Directors may, but is not required to, upon advanced notice of at least seventy-two (72) hours, enter a Unit to ensure that the Unit is in compliance with this Section.

9.22 **Variances.** The Board of Directors may, in its sole discretion, upon a showing of extenuating circumstances, grant variances from the Restrictions set forth in this Article if the Board of

Directors determines in its discretion: (a) either (i) that a Restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners or Occupants of the Condominium Project and is consistent with the high quality of life intended for residents of the Condominium Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then existing Board of Directors. The members of the Board of Directors and the Board of Directors shall not have any right or authority to deviate from the Declaration except as specifically provided for in this provision. No Owner or any other person may rely upon any permission to deviate from this Declaration by anyone including any Board Member or the entire Board of Directors, unless it is reduced to writing and signed as required in this provision.