

## **BOARD RESOLUTION #14**

### **CLARIFICATION OF ARTICLE 12.1(g) AND 12.1(h):**

#### **RENTAL CAP CALCULATION AND EXEMPT UNIT TREATMENT**

#### **HORIZON HEIGHTS CONDOMINIUMS OWNERS ASSOCIATION, INC.**

**WHEREAS**, the Board of Directors (the "Board") of Horizon Heights Condominiums Owners Association, Inc. (the "Association") is authorized under Articles 7.11 and 12.1(i) of the Declaration and Article 14.10's liberal-interpretation directive to adopt rules clarifying the meaning and administration of the Declaration's rental restriction provisions; and

**WHEREAS**, Article 12.1(g) establishes a cap on non-owner-occupied Units and Article 12.1(h) identifies Exempt Non-Owner-Occupied Unit categories, but Article 12.1(g) is susceptible to more than one reasonable interpretation regarding whether Exempt Units count toward the cap and the precise threshold at which the cap is reached; and

**WHEREAS**, Utah Code § 57-8-10.1(2) requires that Owners qualifying for statutory exemptions be free from the practical effect of rental restrictions, making a consistent, lawful administrative clarification necessary;

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby adopts the following clarifications for the administration of Article 12.1(g) and Article 12.1(h) of the Declaration:

### **1. PURPOSE AND SCOPE**

This Resolution is adopted under the Board's rule-making authority (Articles 7.11 and 12.1(i) of the Declaration) to clarify ambiguous provisions of Article 12. It does not amend the Declaration; in any conflict with unambiguous Declaration language, the Declaration controls.

### **2. CLARIFICATION: EXEMPT NON-OWNER-OCCUPIED UNITS ARE NOT COUNTED TOWARD THE RENTAL CAP**

Article 12.1(g) establishes a maximum cap on non-owner-occupied Units. Article 12.1(h) identifies certain Units as "Exempt Non-Owner-Occupied Units." The Board hereby clarifies that:

- a.** Exempt Non-Owner-Occupied Units qualifying under Article 12.1(h)(i) through (iv) shall NOT be counted toward the 40% rental cap established in Article 12.1(g).
- b.** The rental cap applies only to non-exempt, non-owner-occupied Units. The number of Exempt Non-Owner-Occupied Units in the Project at any given time shall not affect an otherwise eligible Owner's ability to apply for rental approval under Article 12.1(g).
- c.** This clarification is consistent with the mandatory exemption requirements of Utah Code § 57-8-10.1(2), which requires that statutorily exempt owners be free from the practical effect of rental restrictions.

### **3. CLARIFICATION: RENTAL CAP THRESHOLD FOR NEW APPLICATIONS**

Article 12.1(g) permits an Owner to apply to rent their Unit if non-owner occupancy is at the applicable threshold. The Board hereby clarifies that:

- a. The rental cap is reached when the number of non-exempt, non-owner-occupied Units equals 40% of the total Units (68 of 170 Units). Once 68 non-exempt rental Units are active, no new rental applications shall be accepted or approved until the number falls below 68.
- b. For purposes of this threshold, “less than 40%” means fewer than 68 non-exempt, non-owner-occupied Units. An application may be accepted only when the current count is 67 or fewer. This interpretation ensures the cap is not exceeded in administration.
- c. The Association shall maintain and make available to Owners, upon request, a current count of: (i) non-exempt rental Units; (ii) Exempt Non-Owner-Occupied Units; and (iii) the number of Units on the rental waiting list, if any.

#### **4. CLARIFICATION: PER-BUILDING CAP**

Article 12.1(g)(i) prohibits more than 50% of the Units in any individual Building from being non-owner occupied. The Board hereby clarifies that:

- a. For purposes of the per-building cap, both Exempt and Non-Exempt Non-Owner-Occupied Units shall be counted. The per-building cap therefore applies to all non-owner occupancy regardless of exempt status.
- b. The Association shall maintain a per-building occupancy record available to Owners upon request.

#### **5. CLARIFICATION: EXEMPT UNIT CATEGORIES**

Article 12.1(h) of the Declaration identifies four categories of Exempt Non-Owner-Occupied Units. The Board further clarifies that, consistent with Utah Code § 57-8-10.1(2)(a)(V), a fifth category is recognized for administrative purposes pending formal amendment of the Declaration:

- a. Entity Ownership / Significant Ownership Interest: A Unit owned entirely by one or more entities or trusts, where the Unit is occupied by an individual who (1) holds a 25% or greater ownership, control, and right to profits and losses of the entity and (2) has voting rights under the entity’s organizing documents. This exemption is required by Utah Code § 57-8-10.1(2)(a)(V).
- b. The Board hereby directs that this category be treated as an Exempt Non-Owner-Occupied Unit in the administration of Article 12.1(h) as an interim administrative measure authorized by Utah Code § 57-8-10.1(2)(a)(V), and until such time as the Declaration is formally amended to include this exemption expressly.
- c. The Board further directs that a formal amendment to Article 12.1(h) to add this exemption be presented to the Owners for approval at the next available opportunity.

#### **6. ADMINISTRATION**

The Board and the Association’s Manager are hereby directed to administer Article 12 of the Declaration in accordance with the clarifications set forth in this Resolution. All rental applications, waiting list procedures, and occupancy reporting shall be conducted consistently with this Resolution from and after its operative date.

## **7. RELATIONSHIP TO BOARD RESOLUTION #13**

This Resolution shall be read in conjunction with Board Resolution #13 (Twelve-Month Owner-Occupancy Requirement for New Unit Owners). Resolution #13 governs the 12-month owner-occupancy requirement; this Resolution governs the rental cap and exempt unit provisions that apply once that requirement is satisfied. In any conflict on rental cap administration, this Resolution controls.

## **8. NOT AN AMENDMENT**

This Resolution clarifies but does not amend the Declaration. Any substantive amendment to Article 12.1(g) or 12.1(h) requires the affirmative vote of Owners holding at least 51% of the eligible Allocated Interest under Article 14.7. The Board separately acknowledges that a formal Declaration amendment—adding the entity/25% ownership exemption to Article 12.1(h) and revising the rental cap threshold language in Article 12.1(g)—is advisable and directs that such amendment be presented to Owners at the next available opportunity.

## **9. OPERATIVE DATE**

This Resolution shall become operative upon the recording of the Amended & Restated Declaration of Covenants, Conditions and Restrictions for Horizon Heights Condominiums in the Salt Lake County Recorder's Office (recorded April 1, 2026) and shall remain in effect unless and until amended or repealed by the Board or superseded by a recorded amendment to the Declaration.

## **10. AMENDMENT OR REPEAL**

This Resolution may be amended or repealed by a majority vote of the Board of Directors at any properly noticed meeting.

**ADOPTED** by the Board of Directors of Horizon Heights Condominiums Owners Association on this 1 day of April, 2026.

### **BOARD OF DIRECTORS:**

Monica West, President

Sterling Mateer, Vice President

Corbin Midgley, Secretary

Neil Boyd, Treasurer

Nick Crawford, Director

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**CERTIFICATE OF SECRETARY**

I, Corbin Midgley, Secretary of Horizon Heights Condominiums Owners Association, Inc., do hereby certify that the foregoing Resolution was duly adopted by the Board of Directors at a meeting held on March 18, 2026, at which a quorum was present and voting.

Corbin Midgley, Secretary

Signature: Corbin Midgley

Date: 4/1/26

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**NOTICE TO OWNERS:** This Resolution and Board Resolutions #11, #12, and #13 will be distributed to all Owners and will be provided to prospective purchasers during the sale process. Title companies and real estate agents will be notified of Board Resolutions #11, #12, #13, and #14, as all four collectively govern the rights and obligations of Unit owners with respect to rental, occupancy, and exemption procedures.