



**AMENDMENT TO THE DECLARATION  
 OF THE COVENANTS, CONDITIONS  
 AND RESTRICTIONS OF THE  
 ESTRELLA HOMEOWNERS  
 ASSOCIATION**

**CONSENT TO THE AMENDMENT OF THE DECLARATION of the Covenants, Conditions and Restrictions of the Estrella Homeowners Association is made pursuant to Article 8.15 and executed this 5 of Sept, 2017, AND AMENDS THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ESTRELLA HOMEOWNERS ASSOCIATION.**

**Article 8.15 Leases is hereby amended as follows and also replaces the Amendment dated May 12, 2014:**

**RECITALS**

- A. Certain real property in Washington County, Utah, known as the Estrella Subdivision was subjected to certain covenants, conditions, and restrictions pursuant to a Declaration of Covenants, Conditions, Restrictions of Estrella Subdivision (“Declaration”) recorded on October 17, 2005, as Entry Number 00978798 in the Recorder’s Office for Washington County, State of Utah.
- B. A certain Amendment to the Declaration of the Covenants, Conditions and Restrictions of the Estrella Homeowners Association was subsequently recorded on May 12, 2014, as Entry Number 20140014115 in the Recorder’s Office for Washington County, State of Utah.
- C. This Amendment shall be binding against the property described in the Declaration and any annexation or supplement thereto, as described in **Exhibit A**.
- D. This Amendment is intended to restrict the manner and number of rentals in the community in order to better establish a residential community and help protect livability and property values for all owners.
- E. Pursuant to Article XI, Section 11.4 of the Declaration, the undersigned officer(s) hereby certifies that the voting requirements to amend the Declaration have been satisfied to adopt the Amendment.

**NOW THEREFORE**, that Article 8.15 is hereby deleted and replaced in its entirety as follows:

### Article 8.15 Use Restrictions

**Section 1. Grandfathering.** Any Owner not in violation of the leasing restrictions shall have the right to continue to Lease such Lot until the earlier of the following:

- A. The Lot becomes Owner-Occupied (as defined below.)
- B. The Lot is sold or,
- C. The Owner is in violation of Section 8.15, including without limitation the failure to advise the Board of the execution of a lease and provide a copy thereof to the Board. This applies also to an extension of a Lease of the original renter.

For the purposes hereof, a Lot shall be deemed "Owner-Occupied" if:

- I. The Owner or any member of his immediate or extended family occupies the Lot for a period of seven days or more in any ten-day consecutive day period.
  - II. The Owner is a corporation, limited partnership, Limited Liability Company, general partnership, trust or other entity and such entity designates in writing to the Board the primary resident of the Lot which must be an officer, manager, member or partner. Such entities may not utilize the Lot in any form of fractional use.
- D. Lot Owners shall not be permitted to further lease their Lots upon the adoption of this Amendment unless "grandfathered" as a permissible rental until such time as the grandfathering expires as described below.
- E. As such, it is the objective and requirement that all Units shall ultimately be Owner-occupied as the grandfathering privilege expires unless an exemption is required by Utah Law.
- F. Any existing lease that at the time of recording of this Declaration has been approved by the HOA is hereby grandfathered as stated herein. Grandfathering shall cease upon transfer of title to the property. A transfer occurs when one or more of the following occurs: (a) the conveyance, sale or other transfer of a Lot by deed; (b) the granting of a life estate in the Lot; or (c) if the Lot is owned by a limited liability company, corporation, partnership, or other business entity, then a transfer means the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period. Grandfathering status also ends when (1) the Lot owner occupies the Lot (being rented at the time of this Amendment) (2) or an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Lot, occupies the Lot.

G. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. In the event Owner fails to remedy the default under their lease agreement, the Association is hereby appointed agent of the Owner and may initiate eviction proceedings against Tenant.

H. Any lease or rental agreement shall be in writing and must be presented to the Board of Trustees. No unit may be leased/rented except as a single-family unit. All Leases shall be for no less than a six (6) month term. No dormitory type rentals are permitted. No unit shall be rented, lease, or utilized for transient hotel purposes, commercial, or vacation time-share. Further, no Owner shall lease or rent less than his or her entire living unit. The units may not be divided into a small rental space than the entire unit space. A renter or lessee may not sublet or allow a third party to occupy the unit. The Association must be notified, through its secretary and/or property management agent, forty-eight (48) hours prior to any move-in or move-out. The terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws, Board Policy Letters and Rules and Regulations of the Association.

**Section 2. Extension of Grandfathering During Vacancy.** An Owner in compliance with this Amendment to Declaration may continue to lease his/her Lot even if the lessee(s) change or the Lot remains unoccupied in between lease terms, provided the Lot does not become Owner-Occupied at any time after the Amendment Date. An Owner must comply with all the covenants and conditions of this Declaration to be able to Lease the Owner's Lot.

**Section 3. Inheritance and Grandfathering.** A Lot that is being leased by an Owner at the time of the Owner's death and is passed to the heirs of such Owner by intestacy or testamentary instruments, may continue to be leased until the heirs sell the Lot or it becomes Owner-Occupied. Subject to Section (4) below, the purchasers shall not have the right to lease the Lot.

**Section 4. Sale of Grandfathered Lot.** Notwithstanding anything to the contrary herein, if an Owner sells his Lot at a time when a Lease is in effect with respect to that Lot, the Lease shall continue to its termination. However, the purchaser of the Lot shall not have the right to lease the Lot after such purchaser takes title to the Lot, except for the remainder of the term of the Lease in place at the time of sale.

**Section 5. Terms of Sale.** Any agreement for the leasing or rental of a Lot (both above and hereafter referred to as "Lease") shall be in writing and shall provide that the terms of such Lease shall be subject in all respects to the provisions of the Declaration, this Amendment to Declaration, the Articles, the Bylaws, the Rules and Regulations and any other governing documents of the Association (collectively the "Governing Documents".) Any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the Lease. Owners with the right to Lease their Lots shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents and the Lease. Failure of an Owner to cure the lessee's default within fifteen (15) calendar days after receiving written notice from the Board of such default, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings in unlawful detainer and/or eviction, on behalf of such Owner against Lessee.

**Section 6. Notification of Lease.** Immediately upon entering into a Lease, an Owner shall furnish the Board with (i) a copy of such Lease (with the lease amount redacted, if desired by the lessee or Owner), (ii) the telephone number of the lessee, and (iii) any change in address or telephone number of the Lot Owners. As soon as practicable after receiving such notification that an Owner has entered into a Lease, the Board may cause copies of the Governing Documents to be delivered to such lessee. (The Governing Document shall be binding on the lessee whether or not the Board delivers the Governing Documents to the lessee.) Failure by an Owner to provide the information in this Section shall be deemed a default hereunder by such Owner. In the Event of a default under this section, the Board, after affording the Owner an opportunity to be heard, may levy a fine against such Owner in an amount determined by the Board, but in no event less than One Hundred Dollars (\$100.00.) The Owner shall have fifteen (15) calendar days after receiving written notice of default from the Board to either pay the fine or request a hearing before the Board. If the fine is not timely paid, or a hearing requested, or the Board finds the Owner in violation after a hearing, the Board shall be entitled to exercise all of its rights hereunder by and under the law, including without limitation to (i) levy continuing fines against any Owner for each day the violation continues, each day being considered a separate violation, (ii) collect such fines, costs and attorney's fees incurred in connection therewith, and (iii) deem the Owner in violation and terminate all further rights of the Owner to Lease the Lot.

**Section 7. Hardship.** If, at any time after the Amendment Date, an Owner believes that a hardship is being endured (the "Hardship") pursuant to which such Owner needs to Lease the Owner's Lot, the Owner may apply to the Board for a Hardship exemption from the leasing restrictions contained in this Amendment Declaration. If an Owner decides to apply for a Hardship exemption, such Owner must take the following steps:

- A. **Application.** The Owner must submit a request in writing to the Board requesting a Hardship exemption setting forth in detail the reason why such Owner should be entitled to same.
- B. **Approved Exemptions.** The following six Hardship exemptions shall be deemed expressly approved for up to a maximum of three (3) years with the opportunity to obtain not more than one (1) year conditional exemption.

The following are exempted for the rental restriction stated herein:

- a) a Lot owner in the military for the period of the Lot Owner's deployment;
- b) a Lot occupied by a Lot Owner's parent, child, or sibling;
- c) a Lot Owner engaged in charitable service or religious service up to two (2) years;
- d) a Lot 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 resident of the Lot; or (2) the parent, child or sibling of the current resident of the Lot;
- e) the Owner is a mortgagee who has acquired title to the Lot through foreclosure or otherwise;

- f) in the event an Owner must reside in a skilled nursing or assisted living facility, an Owner or their designated or appointed agent shall be allowed to rent or lease the Owner's residence.

**C. Conditional Exemptions.** In addition to the foregoing exemptions set forth in subsection (B) above, if, based on the information supplied to the Board by the Owner, the Board finds in its sole discretion, that a reasonable Hardship exists, the Board may grant a waiver of lease restrictions up to a maximum of one (1) year.

**D. Hardship Factors.** The types of Hardships that the Board may consider under subsection (C) above, shall include, but not be limited to, Hardships for a death in the family, transfers for jobs, or one or more significant medical treatments for an Owner or an immediate family member of the Owner (such as a spouse or child) or for a person who resides with the Owner in the Owner's unit, that requires the Owner to be away from the Owner's unit during the medical treatment. The Board, in its sole discretion, may determine if a Hardship exemption shall be granted.

**E. Application for Extension of Exemptions.** In the event an Owner has been granted a hardship exemption, such Owner must reapply within thirty (30) Days of the expiration of such Hardship exemption, if such Owner wishes to request an extension thereof. The Board, in its sole discretion, may decide if an extension for such Hardship exemption shall be granted. However, in no event shall the Hardship be extended beyond a period of three (3) years.

**Section 8. Association Right to Lease.** The Board shall have the right to lease any Association owned Lots or any Lot which the Association has possession of, pursuant to any court order or foreclosure (judicial or non-judicial), and said Lots shall not be subject to this Amendment to Declaration.

**Section 9. Compliance with Governing Documents and Default.** Any Owner who shall lease his Lot shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer and/or Eviction against the lessee in violation of the Governing Documents within fifteen (15) calendar days after receipt of written demand from the Board to take action against the lessee(s) in violation, shall entitle the Association, through the Board, to take any and all action available in law or equity, including without limitation the institution of proceedings in Unlawful Detainer/Eviction, on behalf of such Owner against his lessee. Additionally, if any Owner leases his Lot in violation of this Amendment to Declaration, then after providing the Owner with the appropriate notice and hearing as required by law, the Owner fails to institute proceedings in Unlawful Detainer/Eviction against the lessee to have him removed from the Owner's Lot, then the Association may, but shall not have an obligation to, institute proceeding in Unlawful Detainer/Eviction on behalf of the Owner against the lessee to have the lessee evicted from the property. Any expenses incurred by the Association in enforcing this Amendment to Declaration, including attorney fees and cost of suit, shall be repaid to the Association by such Owner. Failure to such Owner to make such repayment within fifteen (15) days after receipt of written demand thereof, shall entitle the Board (1) to levy and add to the assessment against such Owner and his Lot, all expenses incurred by the Association and to

foreclose the assessment lien according to Utah Law; or (ii) to file suit to collect the amounts due and owing, or both.

**Section 10. Notice.** Notices required hereunder shall be deemed given three (3) days after placing the same in the U.S. First Class Mail, postage pre-paid, to the last address of the Owner known to the Association. An Owner shall be obligated to notify the Association in writing of the Owners correct address and any change in address.

IN WITNESS WHEREOF, Estrella Home Owners Association has executed this Amendment to the Declaration on the dates below.

Estrella

Greg E. Hill  
President

Date: 9-5-17

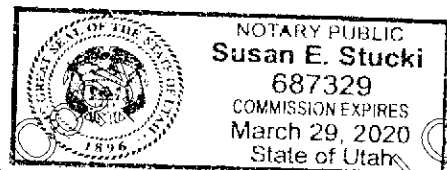
STATE OF Utah

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County of Washington

On the 5 day of Sept, 2017, personally appeared before me Greg E Hill and \_\_\_\_\_ who, being first duly sworn, did that say that they are the President/Secretary of Estrella and that the foregoing instrument was signed in behalf of said Association by authority of its Board of Directors; and each of them acknowledged said instrument to be their voluntary act and deed.

Susan E Stucki  
Notary Public



**EXHIBIT A**

**Legal Description**

All Lots and Common Area Estrella 1 (SG) and Estrella 2 (SG) according to the plat(s) thereof as recorded in the office of the Washington County Recorder.

**Estrella 1 (SG)**  
49 total lots

**Estrella 2 (SG)**  
50 total lots