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RASHELLE HOBBS
Recorder, Salt Lake County, UT
RICHARDS LAW PC
BY: eCASH, DEPUTY - EF 7 P.

**AMENDMENT TO AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
TIDEWATER VILLAGE CONDOMINIUM**

This Amendment to the Declaration of Condominium for Tidewater Village Condominium (“Declaration”) is made on the date indicated below by the Tidewater Village Condominium Owners Association (the “Association”).

RECITALS

A. Certain real property in Salt Lake County, Utah, known as the Tidewater Village Condominium, was subjected to an Amended and Restated Declaration of Condominium, including Bylaws, recorded as Entry No. 10991030, in Book 9840, page 9782, et seq., on July 15, 2010, in the Recorder’s Office for Salt Lake County, Utah;

B. This amendment shall be binding against the property described in **Exhibit A**;

C. This amendment is intended to restrict the manner and the number of rentals in the community in order to better establish a residential community and help protect livability and the property values for all owners;

D. Pursuant to Article XIII of the Declaration, the consent of Owners representing at least sixty-seven percent (67%) of the undivided interest ownership in the Common Areas was duly received to adopt this Amendment to the Declaration.

NOW, THEREFORE, the Association hereby amends Article XIII, Section 8.09 of the Declaration by replacing the existing Section 8.09 in its entirety with the following:

Section 8.09 Lease Restrictions

Consistent with the provisions of the Declaration and the Utah Condominium Act, the leasing and renting of Units by Owners shall be in accordance with the terms herein.

The terms “leasing,” “lease,” “renting,” “rent,” or “rental” used in reference to any Unit within the Association shall mean and refer to the granting of a right to use or occupy a Unit to any person or entity for a specific term or indefinite term (with rent stated on a periodic basis), in exchange for the payment of rent (money, property or other goods or services of value); but shall

not mean nor include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

A. Restrictions. All Owners and units shall be subject to the following restrictions (subject to Section B below):

(i) Rental Cap. It is hereby amended and agreed that no more than **fifteen percent (15%)** of the Units in the Project, may be rented at any given time, except as provided within this document or as may be required by law (“Rental Cap”).

(ii) No Owner may lease or rent less than their entire Unit, unless and only as long as the Owner also resides in the Unit (that is, no individual rooms or partial Unit rentals are permitted unless the Unit Owner also resides in the Unit) and no Owner may lease or rent any Unit for a period of less than **twelve (12) consecutive months**.

(iii) No short term, daily, weekly or monthly rentals are permitted including, but not limited to, nightly or other short-term rentals through programs such as VRBO, Airbnb, or similar arrangements. Individual room rentals are not permitted, unless and only as long as the Owner also resides in the Unit.

(iv) Any Owner allowing a non-owner occupant to occupy his or her Unit shall be responsible for the occupant’s compliance with the Declaration, Bylaws and Rules.

B. Exemptions. The following Unit Owners and their respective Units, upon proof sufficient to the Management Committee, are exempt from the rental cap limit outlined herein below unless otherwise stated:

(i) A Unit Owner in the military for the period of the Unit Owner’s deployment;

(ii) A Unit occupied by a Unit Owner’s parent, child, or sibling;

(iii) A Unit Owner whose employer has relocated the Unit Owner for two (2) years or less;

(iv) A Unit owned by an entity that is occupied by an individual who:

(a) Has voting rights under the entity’s organizing documents; and

(b) Has a 25% or greater share of ownership, control and right to profits and losses of the entity; or,

(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 the estate of:

(a) A current resident of the Unit; or,

(b) The parent, child, or sibling of the current resident of the Unit.

C. Multiple Unit Ownership. An Owner is not eligible to rent more than one unit until the pending applications of:

(i) All Owners who are not currently renting or leasing unit have been approved; and

(ii) All Owners who are currently renting or leasing fewer units than the applicant have been approved.

D. Application and Approval. Owners desiring to rent or lease their units shall submit a written application to the Management Committee (and/or its agent). Additionally, the Owner shall submit to the Management Committee within ten (10) days of occupancy by the tenants, the names of those occupying the Unit. The Management Committee shall monitor and make a determination of whether the rental or lease will exceed the Rental Cap.

(i) The Management Committee shall:

(a) Approve the application if it determines that the rental or lease will not exceed the Rental Cap; or

(b) Deny the application if it determines that the rental or lease of the Unit will exceed the Rental Cap.

(ii) Applications from an Owner for permission to rent or lease shall be reviewed and approved or denied by the Management Committee as set forth in this subsection.

(a) The Management Committee shall review applications for permission to rent or lease in chronological order based upon the date of receipt of the application and application fee. Within ten (10) business days of receipt, the Management Committee shall approve or deny an application as provided herein and shall notify the Owner within fifteen (15) business days of receipt of the application if permission is not given and the reason for the denial.

(b) If an Owner's application is denied, the applicant may be placed on a waiting list according to the date the application was received so that the Owner whose application was earliest received will have the first opportunity to rent or lease, subject to subsection D of this Section.

(c) The Management Committee is authorized to adopt, by Management Committee rule, procedures and policies that govern the creation, organization and process to implement the above-mentioned waiting list. Said procedures may be modified from time-to-time by the Management Committee to fairly implement the waiting list program described herein.

(iii) An application form, the application approval process, a waiting list, and any other rules deemed necessary by the Management Committee to implement this section shall be established by rules or resolution adopted by the Management Committee consistent with this

Declaration and to ensure the consistent administration and enforcement of the rental restrictions contained herein.

(iv) All Owners provide the Management Committee with a copy the executed lease, which shall be kept on file with the books and records of the Association so that the Association may determine the number of Units rented or leased. The Approved Lease Agreement, or its equivalent, shall be on a form prescribed by resolution of the Management Committee.

(v) If an Owner fails to submit the required application, fails to use and submit a copy of the Approved Lease Agreement and rents or leases any Unit, and/or rents or leases any Unit after the Management Committee has denied the Owner's application, the Management Committee may assess fines against the Owner or Tenant (as may be consistent with Utah law, Utah Code §57-8-8.1) and the Owner's Unit in an amount to be determined by the Management Committee pursuant to a schedule of fines adopted by resolution.

In addition, regardless of whether any fines have been imposed, the Management Committee may proceed with any other available legal remedies, including but not limited to an action to, terminate the rental or lease agreement and removal of any tenant or lessee.

(vi) The Association shall be entitled to recover from the offending Owner its costs and attorney's fees incurred for enforcement of this Section regardless of whether any lawsuit or other action is commenced. The Association may assess such costs and attorney's fees against the Owner and the Lot as an assessment pursuant to the Declaration.

E. Grandfathering Clause. All Owners of record prior to the recordation of this amendment currently renting or leasing their Unit, may continue to rent or lease their Unit, for as long as they own the Unit, until such time as title to the Unit changes, for whatever reason, unless an exemption (above) is required. At such time title changes, the "grandfathered status" is lost. However, notwithstanding the grandfather provision above, if a Grandfathered Owner fails to re-let their unit within ninety (90) days of the expiration or termination of a rental or lease agreement by any tenant, then the Grandfathered Owner and unit shall lose their grandfathered status and become subject to the Rental Cap expressed above and shall apply to the Management Committee for permission to rent or lease the unit.

F. Lease Agreements. Rental and lease agreements shall comply with this subsection.

(i) The Owner shall provide the tenant or lessee with a copy of the Declaration, the Bylaws, including any relevant amendments to such documents, and all rules and regulations then in effect and shall take a receipt for delivery of the documents. In the event any such documents are amended, revised, changed, or supplemented by the Association, the Owner shall provide the tenant or lessee with a copy of the amendments, revisions, changes, or supplements within ten (10) calendar days of adoption by the Association, its Management Committee, or its membership.

(ii) Upon the commencement of the rental or lease period, the Owner shall provide the Association with a signed copy of the Approved Lease Agreement.

G. Remedies. In addition to any other remedies available to the Association, the Management Committee may require the Owner to terminate a lease or rental agreement if the Management Committee determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Bylaws, or any amendments thereto, or the rules and regulations adopted thereto. If an Owner fails to correct any such violations related to their tenants or fails to terminate the lease pursuant to the above, the Owner hereby grants the Management Committee standing to initiate eviction proceedings against their tenant and considers the Association a third-party beneficiary to its rental/lease agreement.

H. Additional Rules. The Management Committee is authorized to promulgate additional rules, procedures and requirements regarding rentals and the rental process as it deems necessary from time to time to give effect to, or further clarify, this amendment.

(i) Fines, Sanctions and Attorney's Fees. The Management Committee shall have the power to enforce the Association's governing documents, including by obtaining injunctive relief from the courts, by issuing fines, by terminating any common service paid for as a common expense, and by utilizing any other remedy authorized by law or the governing documents in order to maintain and operate the project and to enforce these rental restrictions. The Association shall be entitled to its attorney's fees and costs in any action to enforce the terms of this Amendment or its rules.

(ii) Lease Payments by Tenant to Association. If an Owner who is renting his or her Unit fails to pay an assessment for more than sixty (60) days after the assessment is due, the Management Committee may demand that the tenant, and the tenant thereafter shall, pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until the amount due to the Association is paid in accordance with the procedures established by law, and such amounts shall be the personal obligation and debt of the tenant to the Association, jointly and severally with the Owner.

(iv) Hardship Exemptions to Rental Prohibition. The Management Committee shall have the sole discretion to allow rentals that would otherwise exceed the rental cap stated herein upon the showing of an undue hardship by the requesting owner. The Management Committee shall state the terms and duration of the hardship exemption granted and cause the owner to sign an agreement to such terms. No hardship exemptions are guaranteed, nor may this Section be relied on by any owner that such an exemption will be granted.

I. Limitation of Unit Ownership.

In order to help assure that Units within the Association qualify and are eligible for loans on the secondary and primary mortgage market, as also may be required by Fannie Mae, Freddie Mac and/or the Federal Housing Administration, which helps with the ability to purchase or securitize mortgages within the Association, no single entity (the same individual, investor group, entity, partnership, or corporation) may own more than 10% of the total number of units within the Association at any given time.

Should this provision be violated, the Association, through the Management Committee, shall be able to enforce this restriction to protect the interests of the Association and its members, with or without legal action as deemed necessary, and the offending purchaser/owner shall be responsible for all costs and attorney fees associated with said enforcement.

IN WITNESS WHEREOF, the Tidewater Village Condominium Owners Association has executed this Amendment to the Declaration as of the 30th day of September, 2020.

TIDEWATER VILLAGE CONDOMINIUM OWNERS ASSOCIATION

Kristy Withers
President

Donna Paulson
Secretary

State of Utah)
 :SS
County of Salt Lake)

On the 30th day of September, 2020, personally appeared Kristy Withers and Donna Paulson who, being first duly sworn, did that say that they are the President and Secretary of the Association and that said instrument was signed in behalf of said Association by authority of its Management Committee; and each of them acknowledged said instrument to be their voluntary act and deed.



Stacy Lasson
Notary Public for Utah

EXHIBIT A

Legal Description

All Units and Common Area, TIDEWATER VLGE CONDO, according to the official plat thereof recorded in the records of the Salt Lake County Recorder.

First Parcel No. 22082340020000

All Units and Common Area, TIDEWATER VLGE PH 2 CONDO, according to the official plat thereof recorded in the records of the Salt Lake County Recorder.

First Parcel No. 22091050020000