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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEP RT REC'D FOR ASPEN COURT HOMEOWNERS

01-139-0001 thru 01-139-0019

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AMENDMENTS
TO THE
DECLARATION & BYLAWS
OF
ASPEN COURT CONDOMINIUM

November 2017

AMENDED DECLARATION

ASPEN COURT CONDOMINIUM

This Amended Declaration of Aspen Court Condominium ("Amendment") is made and executed on the date shown below by the Aspen Court Homeowners Association Board of Directors ("Board") after having been voted on and approved by the members of the Aspen Court Homeowners Association ("Association"), a Utah nonprofit corporation.

RECITALS

WHEREAS, Aspen Court Condominium ("Aspen Court") was created by the recording of the "Declaration of Condominium of Colonial View Condominiums" ("Enabling Declaration") on December 8, 1983, as entry number 659308, in the office of the Davis County Recorder; and

WHEREAS, subsequent to the creation of Aspen Court there have been a number of amendments to the Enabling Declaration and the Association's Bylaws (all of which shall collectively be referred to herein as the "Governing Documents");

NOW THEREFORE, the members of the Association do hereby adopt the following Amendment and amend the Governing Documents referenced herein and recorded against the real property located in Davis County, Utah, known as Aspen Court Condominiums and more fully described on Exhibit "A" attached hereto.

This Amendment shall become effective upon recording and shall be controlling in the event of a conflict between this Amendment and any other provision set forth in the Governing Documents. Any provision in the Governing Documents in conflict with the provisions in this Amendment shall be deemed revoked and replaced by the provisions set forth herein.

The Governing Documents are hereby amended as follows:

ARTICLE I

NAME CHANGE

When Aspen Court was created, the subdivision name under which it was recorded at Davis County, Utah, was Colonial View Condominiums, which name continues as the legal name of the condominium complex on the Davis County records. However, Colonial View condominium has been commonly known and referred to as Aspen Court Condominium for many years and the owners association was incorporated under the name of Aspen Court Homeowners Association, as a Utah nonprofit corporation on April 5, 2016. The homeowner

association for Colonial View Condominiums shall hereafter be known and referred to as the Aspen Court Homeowners Association.

ARTICLE II LEASING RESTRICTIONS

WHEREAS, the Owners desire to preserve and enhance the quality of life within the Project and have purchased their Unit for the purpose of using their Unit as an Owner occupied Single Family Residence; and

WHEREAS, the Owners believe the high-density planned residential unit development ("PRUD") living concept was developed to create a real property interest wherein individuals could own their own property and enjoy the benefits that accompany ownership of real property, including the stability associated with real property ownership, both individually and as a neighborhood, as well as the security that comes to a community by having residents who have ownership interests in real property and are committed to the long-term welfare and good of the community;

WHEREAS because the Owners of Units within the Project own a shared and undivided interest in the Association Common Area, the Common Area was created for the purpose of owners sharing the use of Common Area and not created for the use of non-Owners.

WHEREAS, the Owners of Units realize that the value of their Units is directly related to the ability to sell their Units, that the ability to sell their Units is directly related to the ability of prospective borrowers to obtain financing, and that underwriting standards at financial institutions and secondary mortgage markets restrict the percentage of non-owner occupied Units that can exist in a condominium community; and further, when too high a percentage of non-owner occupied Units exist in a condominium community, a buyer will not be able to qualify for favorable and competitive market interest rates and financing terms, thus inhibiting Owners' ability to sell their Units and depressing the value of all the Units at Aspen Court; and

WHEREAS, the Owners desire to live in a condominium community that is orderly, peaceful, well-maintained, and desirable, and that will allow for and protect the comfortable enjoyment of all residents of Aspen Court, and have determined through the years of collective experience, that Owners of Units are more responsive to the needs of the condominium community, take a greater interest and care of the Common Areas, and are generally more respectful of the Association rules;

THEREFORE, to accomplish the Owners' objective, the following provisions are adopted limiting and restricting the number of Units that may be occupied by non-Unit-Owners at Aspen Court:

2.1 **Leasing Prohibited.** The leasing/renting of Units or lots at Aspen Court is prohibited unless the leasing is consistent with the provisions of this Amended Declaration.

2.2 **Limited Leasing Permitted.** Not more than four (4) units within Aspen Court may be rented at any one time. No Units may be leased within Aspen Court unless they meet one of the exceptions stated below.

2.3 **Board Approval of Leases.** All leases, assignments of leases, and all renewals of such agreements shall be first submitted to the Aspen Court Board who shall determine compliance with the exceptions contained in this Amended Declaration.

2.4 **Notification of Board.** Any Unit Owner desiring to lease his/her Unit or to have his/her Unit occupied by a non-Unit-Owner shall notify the Board in writing of their intent to lease their Unit. The Board shall maintain a list of those Unit Owners who have notified the Board of an intent to lease their Unit and shall grant permission to Unit Owners to lease their Unit only if there are less than four (4) units being rented at the time of the request to rent, or if they meet the exceptions stated below. Permission to lease a Unit shall be granted in the same order the Board receives the written notice of intent to lease a Unit from the Unit Owners. The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Aspen Court subject to the provisions described above, and shall ensure consistent administration and enforcement of the rental restrictions in this Amendment.

2.5 **Restrictions Not Applicable.** The lease restrictions contained herein shall not apply:

a. To a Unit Owner who is a member of the military and is temporarily deployed out of the State of Utah, and by reason of the temporary deployment is required to move from the Unit during the period of temporary military deployment. The Unit Owner who is temporarily deployed may lease their Unit during the period of temporary military deployment. However, if the Unit Owner moves from the Unit due to a permanent change of station (PCS), the leasing of the Unit shall cease and the rental restrictions contained herein shall continue to apply to that Unit and Unit Owner;

b. To a parent, grandparent, or child who is a Unit Owner and leases their Unit to a family member who is a parent, grandparent, child, grandchild, or sibling of the Owner;

c. To a Unit Owner who moves at least 50 miles from the Unit by reason of being relocated by the Unit Owner's employer, if relocation of the Owner is required by the employer. However, if the relocation will be for a period of more than two years and one month, the leasing restriction set forth herein shall be enforced and the Unit Owner may not continue to lease his or her Unit;

d. To a Unit Owner who moves at least 50 miles away from their Unit due to temporary (less than three years) humanitarian, religious or charitable activity or service and leases their Unit with the intent to return to occupy the Unit when the humanitarian, religious or charitable service has concluded, or

e. To 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 the current Resident of the Unit or the parents, grandparent, child, grandchild, or sibling of the current Resident of the Unit.

2.6 Grandfather Clause. Those Units that are occupied by non-Unit-Owners at the time this Amended Declaration is recorded at the Davis County Recorder's Office may continue to be occupied by non-Unit-Owners until the Unit Owner (a) transfers the Unit and no longer hold title to the Unit in the Unit Owner's name; (b) occupies the Unit; or (3) 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 Unit, transfers the Unit or occupies the Unit.

2.7 Transfer of Unit. For purposes of subparagraph 2.6, a transfer occurs when one or more of the following occurs:

- a. the conveyance, sale, or other transfer of a Unit by deed;
- b. the granting of a life estate in the Unit; or
- c. if the Unit is owned by a limited liability company, corporation, partnership, or other business entity, 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.

2.8 Tracking. The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Aspen Court subject to the provisions described in paragraphs 2.5 and 2.6 above, and shall ensure consistent administration and enforcement of the rental restrictions in this Amended Declaration.

2.9 **Rental Unit Defined.** As used herein, "Rentals" or "Rental Unit" means a Unit owned by an Owner is occupied by one or more individuals while, at the same time, the Unit Owner does not occupy the Unit as the Owner's primary residence.

2.10 **Renting Defined.** As used herein, "Renting or "Leasing" (or a variation of these words) means a Unit that is owned by an Owner that is occupied by one or more non-owners while no Owner occupies the Unit as the Owner's primary residence. The payment of remuneration to an Owner by a non-Owner shall not be required to establish that the non-Owner is leasing a Unit. Failure of a non-Owner to pay remuneration of any kind to the Owner shall not be considered when determining if a Unit is a Rental Unit.

2.11 **Non-Owner Defined.** As used herein, "Non-Owner" means an individual or entity that is not an Owner.

2.12 **Occupied Defined.** As used herein, "Occupied" means to reside in the Unit for ten (10) or more days in any thirty (30) day period. A Unit is deemed to be occupied by a non- Owner if the Unit is occupied by someone other than the Unit Owner.

2.13 **Household Composition Defined.** No rule shall interfere with the freedom of the occupants of Dwelling Units to determine the composition of their households, except that the Amended Declaration limits residency in a Dwelling Unit to a single family and the Association shall have the power to limit the total number of occupants permitted in each Dwelling Unit on the basis of the size and facilities of the Dwelling Unit and its fair share use of the common areas and the health and safety of the residents.

2.14 **Single Family Defined.** The term "Single Family" shall have that meaning set forth in Article I of the Definitions.

2.15 **No Leasing Individual Rooms.** When leasing is permitted herein, no daily or weekly rentals shall be permitted, nor may an Owner or tenant lease individual rooms to separate persons or lease less than the entire Lot.

2.16 **Violation.** Any Unit Owner who violates this Amended Declaration shall be subject to a complaint for damages and/or an injunction and order seeking to terminate the lease in violation of this Amended Declaration. If Aspen Court retains legal counsel to enforce this Amended Declaration or any part thereof, with or without the filing of legal process, the violating Unit Owner shall be liable for all costs and expenses incurred by the Association, including but not limited to attorney fees and court costs incurred by the Board in enforcing this Amended Declaration.

ARTICLE III DUTIES OF OFFICERS

3.1 **Repeal of Language in Bylaws.** The following language in Paragraph VI of the Aspen Court Amended Bylaws ("Bylaws"), recorded in the Davis County Records Office as Entry No. 0722070 on December 20, 1985, is hereby deleted: "A Chairman shall be elected by the Management Committee, which chairman shall preside over the Committee."

3.2 **Authority of Association's Officers.** As set forth in the Bylaws, Paragraph VII, titled "Officers", the officers, including but not limited to the office of "President", shall be elected by the Management Committee (also known as the board of directors). All officers, including but not limited to the office of President of the Association, shall serve at the direction of the Management Committee and shall have the authority to act in behalf of the Association only as authorized by and directed by the Management Committee. The President, as well as any other officer of the Association, may execute contracts on behalf of the Association, but only upon the vote and prior approval of the Management Committee. No officer may bind the Association without first obtaining the approval and consent of the Management Committee. All members of the Management Committee and its officers are subject to and may not engage in any action not consistent with the terms and requirements of the Association's Governing Documents.

ARTICLE IV NUISANCE EVICTIONS

4.1 **Eviction of Nuisance Tenants.** All Residents of Aspen Court are required to abide by the provisions of the Governing Documents. All leases of Units shall be in writing and shall by reference incorporate the provisions of the Governing Documents into the terms of the lease. The names and phone numbers of the tenants shall be provided to the Management Committee so tenants may be contacted in the event of an emergency. Failure of a tenant to comply with the terms of the Governing Documents shall be a default under the terms of the lease. The Management Committee may maintain an action, separate and apart from the unit owner, for eviction, injunction, and/or damages against a tenant who is in violation of the Governing Documents or who violates a city ordinance or Utah State law affecting the peace, quiet, or comfortable enjoyment of residents within Aspen Court. In the event the Management Committee determines it is necessary to take action which involve the Association's legal counsel, whether judicially or through less formal means, against a tenant or landlord due to violation of the Governing documents, the Association shall be entitled to collect attorney fees and costs of court, if any, jointly and severally from the landlord or the tenant.

4.2 **Eviction.** In the event a tenant fails to abide by the terms of the Governing Documents or any State Law, including but not limited to nuisance laws or laws relating to possession of controlled substances, and if a Unit Owner is unable or unwilling to instigate legal action to evict a tenant or otherwise require a tenant to abide by the terms of the Governing Documents or State Law after first receiving notice from the Association, the Association may institute eviction proceedings against the tenant who is in violation of the Governing Documents or State Law. Prior to the Association instigating eviction proceedings the Association shall first provide notice of the violation to the Unit Owner and to the Unit Owner's tenant (the "First Notice"). Notice may be provided in writing, by U.S. Mail, by email, by posting on the Unit or at the Unit Owner's residence, or by any other means by which the Unit Owner and tenant are most likely to receive fair and adequate notice from the Association. If within 365 days following the Association's First Notice the tenant again repeats the same or substantially similar violation of the Governing Documents or State Law, the Association shall again provide notice to the Unit Owner of the tenant's violation (the "Second Notice"). The Unit Owner shall then have five days following the Second Notice to instigate legal action to evict the tenant from the Unit at Aspen Court. No additional notice shall be required for a repeat violation after the First Notice has been given. Should the Unit Owner fail to provide proof to the Association within five days of receiving the Second Notice that the Unit Owner has instigated eviction proceedings, or if the Unit Owner does not promptly take all legal action reasonably available to evict the tenant from the Unit, then the Association may instigate eviction proceedings against the tenant and shall name the unit owner as a defendant due to the Unit Owner violating the provisions of this Paragraph 4.2. The Association shall be entitled to collect attorney fees and costs of court, if any, jointly and severally from the landlord or the tenant.

CERTIFICATION

It is hereby certified that this Amendment has been consented to and approved by Unit Owners representing sixty-seven percent (67%) or more of the undivided interests in the condominium common areas and facilities. It is further certified that this Amendment has been properly adopted according to the requirements of the Aspen Court Enabling Declaration and Bylaws.

IN WITNESS WHEREOF, this 11 day of December, 2017.

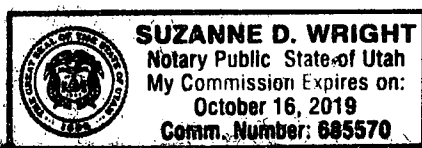
Aspen Court Condominium Board of Directors

By
Its:

Jeanne Colleen Casper
Board Member

STATE OF UTAH)
 :SS.
COUNTY OF DAVIS)

On this 11 day of December, ²⁰¹⁷, personally appeared before me, Joanne Colleen Carper, who, being by me duly sworn, did say that (s)he is Board Member of the Aspen Court Condominium Homeowners Association Management Committee and that the within and foregoing document was signed as an officer of the Association and in behalf of said Association and (s)he duly acknowledged to me (s)he executed the same.



Suzanne D. Wright
Notary Public

EXHIBIT "A"

Legal Description of Units

Units A thru D, Bldg. 3045, Colonial View Condo Amd. Bountiful City, Davis County, Utah

Units A thru D, Bldg. 3047, Colonial View Condo Amd. Bountiful City, Davis County, Utah

Units A thru D, Bldg. 3049, Colonial View Condo Amd. Bountiful City, Davis County, Utah

Units A thru G, Bldg. 3051, Colonial View Condo Amd. Bountiful City, Davis County, Utah

(01-139-0001 thru 01-139-0019)