

**AMENDMENT
TO THE
CONDOMINIUM DECLARATION
OF
THREE FOUNTAINS NORTH OGDEN**



W1804683

WHEREAS, the Declaration of Condominium of Three Fountains North Ogden ("Declaration") recorded June 16, 1998, in the Weber County Recorder's Office in Book 1935, beginning at page 1785, and

WHEREAS, THREE FOUNTAINS CONDOMINIUM is contained within the real property located in Weber County, Utah, and more fully described as follows:

A part of Lot 49, Plat "B" North Ogden Survey in the Northwest Quarter of Section 32, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey; Beginning at a point on the West line of Washington Boulevard South 0°15' West 207.20 feet from the Northeast corner of said Lot 49; running thence South 0°15' West 201.58 feet along the West line of said Washington Boulevard; thence South 61°45' West 169.38 feet; thence North 28°15' West 95.00 feet; thence South 61°45' West 55.00 feet; thence North °15' West 20.00 feet; thence South 61°45' West 190.00 feet; thence North 28°15' West 130.00 feet; thence North 89°50' West 178.94 feet; thence North 0°15' East 392.11 feet to the South line of 2550 North Street; thence South 89°41'30" East 451.30 feet along the South line of said 2550 North Street; thence South 0°15' West 42.90 feet; thence North 89°41'30" West 3.00 feet; thence South 0°15' West feet; thence South 89°41'30" East 3.00 feet; thence South 0°15' West 102.85 feet; thence South 89°41'30" East 208.70 feet to the point of beginning containing 5.574 acres.

hereinafter referred to as the "real property," and

WHEREAS, as it is the intent of THREE FOUNTAINS to provide housing primarily for persons fifty-five (55) years of age and older and to comply with the provisions of the Housing For Older Persons Act of 1995 (HOPA), which outlines the qualifications for housing for older persons exemption established by the Fair Housing Act, found in both state and federal regulations, and

WHEREAS, section 8 (a), page 12 of the Declaration did not address the requirements of HOPA, it is necessary to amend the Declaration in order to satisfy the requirements of the HOPA.

NOW THEREFORE, the owners of the units at Three Fountains Condominiums do hereby adopt the following Amendment to the Declaration of the Three Fountains Condominium.

Section 8 of the Declaration of the Three Fountains Condominium is hereby amended as follows:

The current language of Section 8 (a) is stricken and replaced with the following:

E# 1804683 BK2178 PG2492
DOUG CROFTS, WEBER COUNTY RECORDER
30-OCT-01 1132 AM FEE \$81.00 DEP JPM
REC FOR: THREE.FOUNTAINS.NO.0GDEN

18-059-0001-0025 ✓
18-059-0033-0072 ✓
18-086-0001-0009 ✓

SECTION ONE

Three Fountains Intent To Comply With HOPA

(a) Three Fountains Condominium is unique in its intent to provide housing primarily for persons 55 years of age or older. Three Fountains operates its community for occupancy by persons fifty-five (55) years of age or older. At least eighty (80%) percent of the occupied units are currently occupied by at least one person who is fifty-five (55) years of age or older. This reflects Three Fountains' intention to comply with provisions of HOPA, which outlines the requirements for qualification for housing for older persons exemption established by the Fair Housing Act. (§100.304 of HOPA).

(b) As a part of Three Fountains' intent to operate as housing designed for persons who are fifty-five (55) years or older, Three Fountains shall advertise in a manner designed to attract such prospective residents who are also fifty-five (55) years or older. Three Fountains shall do this by requiring that all sales proposals, contracts, and lease provisions shall provide notice of its intent to operate housing primarily designed for persons fifty-five (55) years or older.

(c) Three Fountains Condominium will publish and adhere to these policies demonstrating its intention to qualify for this exemption, including compliance with all rules issued by the State of Utah or HUD for the verification of occupancy in the community. (§100.304 of HOPA).

(d) As a part of Three Fountains' intention to comply with the individual provisions of HOPA, any Declarations, Community Rules, or By-laws now existing or hereafter adopted in violation or contradiction to the provisions of state and federal law are void and without effect.

SECTION TWO

Use of Condominium Units

(a) Each Three Fountains unit is intended to be used for single family residential purposes, and is restricted to such use. No unit shall be used for business or commercial activity.

(b) Guests or visitors of Three Fountains are accommodated only when such accommodation does not infringe upon the convenience or right of enjoyment of the other residents and other condominium occupants.

(c) A person shall be deemed a resident for purposes of this section when residing in a unit for a period of fourteen (14) days in any thirty (30) day period. Renters are considered to be residents and are subject to the restrictions contained in the Declaration and the Condominium Rules.

(d) As a community designed primarily for persons who are fifty-five (55) years of age or older, Three Fountains requires that all units shall be occupied by at least one person fifty-five

(55) years of age or older until at least eighty (80%) percent of the units are occupied by at least one person who is fifty-five (55) years of age or older.

(e) Any contracts, leases, or proposals to sell or rent units at Three Fountains Condominiums shall clearly state and give notice that Three Fountains is a community designed as an over fifty-five (55) years of age community.

(f) Three Fountains, by maintaining eighty (80%) percent of the condominium units as an over fifty-five (55) year old community, may allow the remaining twenty (20%) percent of the occupied units to be occupied by persons under fifty-five (55) years of age. However, in no circumstances shall any resident of Three Fountains be under the age of forty (40) years of age.

(g) Individuals residing in a unit as a reasonable accommodation to a resident with a disability (as defined under the Americans with Disability Act (ADA)), shall not be counted in meeting the 80 % requirements nor be included in determining the minimum age requirement. This exemption shall ensure that Three Fountains does not violate the ADA by nor HOPA requirements by authorizing reasonable accommodations for residents who, because of a disability, require an attendant, including family members under the age of 40, to reside in their unit in order for that person to benefit from the ownership of his or her unit.

SECTION THREE

Good Faith Defense Against Money Damages

(a) Three Fountains, in seeking to rely on HOPA's good faith defense, finds that the management committee or individuals residing at Three Fountains shall not be held personally liable for monetary damages where such person(s) acted in good faith in belief that Three Fountains qualifies for a housing primarily for older persons exemption. (§100.38 of HOPA).

(b) Three Fountains has through authorized representatives asserted in writing that it qualifies as housing for older persons and thus, individuals of Three Fountains shall qualify for this good faith belief defense.

SECTION FOUR

Verification of Occupancy

(a) By virtue of being a 55-years of age or older community, eighty (80%) percent of the Three Fountain units must be occupied by at least one person fifty-five (55) years of age or older. In determining whether Three Fountains Condominium meets the 80% requirement, the occupants of the dwelling units will be counted, and not the owners.

(b) If a fifty-five (55) year old or older unit owner decides to vacate a unit for an indefinite period of time and rents to an under fifty-five (55) year old person, the current renter must comply with all other existing age restrictions in the Three Fountains Declarations and Community

Rules. (§100.305 of HOPA).

(c) Three Fountains Condominium will comply with federal and state regulations through use of reliable surveys and affidavits. The following documents are considered reliable for age verification of unit occupants and may be shown by the following:

- (i) Birth certificate, drivers license, passport, immigration card, military identification, or any other state, local or national documentation, provided it contains current information about the unit occupants age or birth.
- (ii) A self certification in the lease, application affidavit, or other document signed by an adult member of the household asserting that at least one of the unit occupants is 55 years of age or older will also satisfy age verification under this subject.
- (iii) Three Fountains HOA may, if it has sufficient evidence, consider the household to be occupied by at least one person who is 55 years or older.
- (iv) Statements made under penalty of perjury from third party individuals who have knowledge of the age of the unit occupants may be used when the household itself refuses to cooperate by providing age verification. Other information, such as statements indicating age in prior applications may also be acceptable. Three Fountains Condominiums may base its decision for age verification on government documents such as census data. (§100.307 of HOPA).

(d) Three Fountains will survey its current list of residents once every two years in October of odd years to ensure that at least eighty (80%) percent of the residents are fifty-five (55) years of age or older. The remaining twenty (20%) percent of the occupied units may be occupied by persons under the age of fifty-five (55), but who must be at least forty (40) years of age and over. (§100.307 (f)(h) of HOPA).

(e) Three Fountains will retain the records of the survey so long as it intends to maintain its age exempt status. (§100.307(f)(i) of HOPA).

(f) As a result of Three Fountains adopting these rules, and in order to maintain a primarily over fifty-five (55) year old community, the Three Fountains Condominium Management Committee is authorized and empowered to bring legal action as the result of any violations or non-compliance with any of the above age restrictive rules found in the Declarations or Community Rules. Three Fountains is entitled to evict any residents who lease or purchase a unit in violation of the HOPA requirements, or to void any contract for sale, and to collect from the offending party any and all costs and fees, including reasonable attorney's fees, from the party who seeks to sell or lease a unit or who seeks to purchase or lease a unit in violation of any of the provision herein or in violation of any of the provisions of HOPA. Any contracts, leases, sales or rental agreements entered into in violation of the age restrictive requirements are also void and may result in legal

action and eviction from the Three Fountains Condominium.

(g) As of the date of adoption of this Amendment to the Three Fountains' Declaration, any current resident under the age of forty (40) years old, shall be permitted to continue residing in Three Fountains until their unit is sold or their lease expires.

(h) Prior to any unit owner selling or leasing his or her unit, they shall first contact the management committee, in writing, to obtain written authorization from the management committee to sell or lease their unit to a person 55 years of age or older (to maintain the 80% HOPA standard), or to sell or lease their unit to a person 40 years of age or older (to maintain the minimum age requirement).

SECTION FIVE

EFFECTIVE DATE

(a) This amendment shall take effect when recorded.

CERTIFICATION

It is hereby certified that the unit owners representing at least a two-thirds (2/3) vote of those in attendance at a duly called and constituted meeting of the unit owners have approved and consented to the amendments stated herein.

In witness whereof, executed this 30 day of October, 2001.

THREE FOUNTAINS CONDOMINIUM MANAGEMENT COMMITTEE

BY: Darcy Kim Bunker
Chairman

STATE OF UTAH)
 : ss.
COUNTY OF WEBER)

E# 1804683 BK2178 PG2496

On the 30th day of October, 2001, personally appeared before me DARCY KIM BUNKERSON who being duly sworn, did say that she is the chairman of the Three Fountains Condominium Management Committee and that the within and foregoing instrument was signed on behalf of said management committee, and acknowledged to me that she is the signer of the above instrument and the information contained therein is true and correct to the best of her knowledge.

Douglas W Crofts
Notary Public

