



W2727209

E# 2727209 PG 1 OF 10
Leann H. Kilts, WEBER COUNTY RECORDER
23-Mar-15 12:28 PM FEE \$53.00 DEP DS
REC FOR: HELGESEN HOUTZ & JONES
ELECTRONICALLY RECORDED

AMENDMENT
TO THE
COVENANTS, CONDITIONS & RESTRICTIONS
OF
EASTGROVE CONDOMINIUM

March 2015



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This Amendment to the Declaration of Covenants, Conditions & Restrictions and Reservations of Easements for Eastgrove Condominium ("Amendment") is made and approved by the unit owners of Eastgrove Condominium on the date shown below after being voted on and approved by the unit owners in accordance with the Governing Documents (as defined below) of Eastgrove Condominium ("Eastgrove").

RECITALS

WHEREAS, Eastgrove Condominium was created by the "Declaration of Covenants, Conditions and Restrictions and Reservations of Easements for Eastgrove Condominium" ("Enabling Declaration"), recorded in the records of Weber County, Utah, on February 23, 1979, in Book 1288, beginning on page 327 as entry # 757991; and

WHEREAS, the Enabling Declaration was amended by the Notice of Additional Territory and Amendment of Declaration of Eastgrove Condominium, recorded in the records of Weber County, Utah, on November 2, 1983, in Book 1435, beginning on page 342 as entry # 894202; and

WHEREAS, the Enabling Declaration was amended by the Declaration of Covenants, and Restrictions and Reservations of Easements for Eastgrove Condominium, recorded in the records of Weber County, Utah, on September 3, 1991, in Book 1607, beginning on page 331 as entry # 1150951; and

WHEREAS, the Enabling Declaration was amended by the Declaration of Covenants, and Restrictions and Reservations of Easement for Eastgrove Condominium ("1992 Declaration"), recorded in the records of Weber County, Utah, on June 17, 1992, in Book 1629, beginning on page 2728 as entry # 1182311; and

WHEREAS, the Enabling Declaration was amended by the Declaration of Covenants, and Restrictions and Reservations of Easement for Eastgrove Condominium, recorded in the records of Weber County, Utah, on December 1, 1993, in Book 1692, beginning on page 151 as entry # 1260680; and

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OF
EASTGROVE CONDOMINIUM

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WHEREAS, the Enabling Declaration was amended by an Amendment to Declaration for Eastgrove Condominium, recorded in the records of Weber County, Utah on November 3, 2008, as entry # 2373281; and

WHEREAS, the property that is the subject of this Amendment is situated in and upon that certain real property located in Weber County, State of Utah, as specifically described in Exhibit "A", attached hereto and incorporated herein by this reference, and including the Common Area that is appurtenant to each unit as shown on the plat maps for Eastgrove Condominium, as recorded in the office of the County Recorder for Weber County, State of Utah. There are 39 Units at Eastgrove Condominium.

WHEREAS, it is the desire of the unit owners within Eastgrove to live in a condominium community that is orderly, peaceful and desirable, and that will allow for and protect the comfortable enjoyment of all residents of Eastgrove; and

WHEREAS, Eastgrove Condominium Homeowners Association, Inc. ("Association") is responsible for the enforcement of the provisions of the Enabling Declaration, amendments to the Enabling Declaration, and the Association's Bylaws (collectively referred to as the "Governing Documents"); and

WHEREAS, the unit owners within the Association desire to amend the Governing Documents to preserve and enhance the quality of life at Eastgrove Condominium; and

WHEREAS, the unit owners desire to amend the Enabling Declaration to place reasonable restrictions on the percentage of renters who may occupy units at Eastgrove; and

WHEREAS, the unit owners within the Association desire to preserve and enhance the quality of life at Eastgrove and have purchased their units at Eastgrove for the purpose of using their unit as an owner occupied single family residence; and

WHEREAS, the unit owners have purchased a unit in a condominium because they understand the condominium living concept was developed to create a real property interest wherein individuals could own their own real property and enjoy the benefits and stability that accompany ownership of real property, both individually and as a neighborhood, as well as the security that comes to a high density condominium community by having residents who are owners and are committed to the long-term welfare and good of the community, and

WHEREAS, the unit owners 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 FHA and other forms of financing, and that FHA underwriting standards as well as the underwriting standards at financial institutions and secondary mortgage markets restrict the percentage of non owner occupied units that can exist in a condominium; and further, when too high a percentage of non owner occupied units exist in a condominium project, a

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buyer will not be able to qualify for favorable and competitive market interest rates and financing terms, thus inhibiting a unit owner's ability to sell a unit and depressing the value of all the units at Eastgrove; and

WHEREAS, as the result of a variety of economic factors beyond the control of the Association and the owners, permitting a limited percentage of units to be leased may reduce the financial hardship to owners who must move or sell their unit due to circumstances beyond their control, while still protecting the integrity of Eastgrove and permitting Eastgrove to achieve the objectives described above.

NOW THEREFORE, the unit owners of Eastgrove Condominium hereby amend the Governing Documents recorded against the real property located in Weber County, Utah, known as Eastgrove Condominium and more fully described on Exhibit "A" attached hereto. If there is any conflict between this Amendment and the Governing Documents, this Amendment shall control.

This Amendment shall become effective upon recording and shall be controlling in the event of a conflict between this Amendment and any provision in the Enabling Declaration or any amendment thereto. Unless defined in this Amendment, the capitalized terms used herein shall have the same meaning as defined in the Enabling Declaration. The Eastgrove Condominium Governing Documents are hereby amended as follows:

AMENDMENT

ARTICLE I RENTAL RESTRICTIONS

- 1.1 **Owner Defined.** As used herein, "Owner" or "Unit Owner" means an individual or entity that holds a fee title interest in a condominium unit at Eastgrove an Owner as shown on the records of the Weber County Recorder.
- 1.2 **Non-Owner Defined.** As used herein, "Non-Owner" means an individual or entity that is not an Owner as shown on the records of the Weber County Recorder.
- 1.3 **Rent and Lease Defined.** As used herein, "rent" (or a variation of the word) or "lease" (or any variation of the word) 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 compensation 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 compensation of any kind to the Owner shall not be considered when determining if a Unit is a rental Unit.
- 1.4 **Occupied Defined.** As used herein, "occupied" means to reside in a Unit as a full time renter or to reside in a Unit for ten (10) or more days in a thirty (30) day period. A Unit is deemed to be occupied by a Non-Owner if the Unit is occupied by an individual(s) other than the Unit Owner and the Owner is not occupying the Unit as the Owner's primary residence.

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- 1.5 **Single Family Defined.** "Single family" means: (a) a single person living alone or with the person's children, (b) up to three unrelated persons, or (c) a husband/wife relationship with or without children.
- 1.6 **Temporary Defined.** Nothing herein shall prohibit an Owner from permitting a guest or visitor from temporarily residing in his or her Unit, while the Owner is present. As used in this paragraph, "temporarily" mean for a period not exceeding fifteen (15) days in any thirty (30) day period.
- 1.7 **Limited Leasing Permitted.** Not more than five (5) of the Units (thirteen percent (13%)) within Eastgrove may be leased at any time, which leasing must be consistent with the provisions of this Amendment. If less than thirteen percent (13%) of the Units at Eastgrove are occupied by non-Unit Owners, an Owner may Lease his Unit as set forth herein.
- 1.8 **Board Review.** All leases, subleases, assignments of leases, and all renewals of such agreements shall be first submitted to the Eastgrove Board of Directors who shall determine if less than thirteen percent (13%) of the Units are currently rented and to verify compliance with the leasing restrictions of this Amendment.
- 1.9 **Board List.** The Board shall maintain a list of those Unit Owners who have notified the Board of intent to lease their Unit and shall grant permission to Unit Owners to lease their Unit, which permission shall be granted in the same order the Board receives the written notice of intent to lease a Unit from the Unit Owners. Permission shall be granted to lease a Unit only when less than thirteen percent (13%) of the Units at Eastgrove are occupied by a non-Unit Owner. The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Eastgrove subject to the provisions described above, and shall ensure consistent administration and enforcement of the rental restrictions in this Amendment.
- 1.10 **Not Applicable.** The rental restrictions contained in this Amendment shall not apply:
- a. To a Unit Owner who is a member of the military and is temporarily (for a period of not more than 24 months) 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 if they intend to return and occupy the Unit when the period of temporary military deployment has concluded. However, if the Unit Owner moves from the Unit due to a permanent change of station (PCS) the rental restrictions 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;

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 - 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 from the Unit by reason of being relocated out of the State of Utah by the Unit Owner's employer, if relocation of the Owner is scheduled by the employer for a period of less than two years;
- d. To a Unit Owner who moves from their Unit due to temporary (less than two 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.
- f. Units that are leased under the exceptions contained in this Paragraph 1.10 shall not be counted toward the thirteen percent (13%) cap on rental restrictions.

1.11 **Transfer of Unit.** For purposes of this Amendment, a transfer of title to a Unit occurs when one or more of the following occur:

- a. The Owner conveys, sells, or transfers a Unit by deed to another person or entity;
- b. The Owner grants a life estate in the Unit to another person or entity; or
- c. If the Unit Owner is a limited liability company, corporation, partnership, or other business entity, and the Unit Owner sells or transfers more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period to another person or entity.

1.12 **Revocation and Replacement.** Article XVI of the Enabling Declaration is hereby revoked. Article XVI of the 1992 Declaration is hereby revoked. Each of these revoked Articles is replaced by Article I of this Amendment. Any provision in the Governing Documents inconsistent with this Amendment is hereby rescinded and repealed.

1.13 **Severability.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

ARTICLE II AMENDING THE GOVERNING DOCUMENTS

2.1 **Repeal of Existing Amendment Provision.** By adopting this Amendment, Article XVIII of the Enabling Declaration is hereby repealed and replaced by this Article 2.

- c. To a Unit Owner who moves from the Unit by reason of being relocated out of the State of Utah by the Unit Owner's employer, if relocation of the Owner is scheduled by the employer for a period of less than two years;
- d. To a Unit Owner who moves from their Unit due to temporary (less than two 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
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ARTICLE II AMENDING THE GOVERNING DOCUMENTS

2.1 **Repeal of Existing Amendment Provision.** By adopting this Amendment, Article XVIII of the Enabling Declaration is hereby repealed and replaced by this Article 2.

- 2.2 **Amendment.** The affirmative vote of at least sixty seven percent (67%) of the undivided ownership interest in the common areas and facilities shall be required and shall be sufficient to amend the Governing Documents.
- 2.3 **Consent in Lieu of Vote.** In any case in which the Association desires to amend the Governing Documents, such amendment may be accomplished, with or without a meeting of the owners, by obtaining the affirmative approval from owners holding at least sixty seven percent (67%) of the undivided ownership interest in the common areas and facilities, from any of the following: (1) written consents, (2) written ballots, or (3) a vote in accordance with the procedures permitted by the Utah Revised Nonprofit Corporations statute, subject to the following conditions;
- a. **Ninety-Day Limit.** All necessary written consents or written ballots must be obtained prior to the expiration of ninety (90) days from the date the first written consent is obtained; and
 - b. **Change In Ownership.** Any change in ownership of a unit which occurs after a written consent has been obtained from an Owner having an interest therein shall not be considered or taken into account for any purpose and the written consent of the new Owner must be obtained. The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.
 - c. **Mortgagee Protection.** No amendments may be adopted to alter the mortgage protection provisions contained in the Enabling Declaration or to impair any first mortgagee's rights without the prior written consent of all first mortgagees.
- 2.4 **Certification.** In all events, any amendment when adopted shall bear the signature of the president of the Association who shall certify that the amendment was properly adopted, and shall be acknowledged by the president as an officer of the Association. Amendments once properly adopted shall be effective upon recording in the appropriate county offices. It is specifically covenanted and understood that any amendment properly adopted will be effective to amend the Governing Documents, any amendments to the Governing Documents, or the Record of Survey Map, or any amendment thereto which be affected by or contrary to the amendment, unless otherwise specifically provided in the section being amended or the amendment itself.

ARTICLE III ELECTRONIC NOTIFICATION

- 3.1 **Notification by Website, Email, etc.** The Association desires to communicate electronically with Owners to the fullest extent possible. Any notice permitted or required to be sent to Owners under the provisions of the Declaration, amendments to the Declaration, or the Association bylaws, may be sent by electronic means as set forth below. The

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Association shall maintain records of all notices sent to Owners by electronic means, including the electronic address or other address to which notice was sent. An Owner may by written demand require the Association to provide notice to the Unit Owner by U.S. mail.

3.2 Notices.

- a. If notice is by mail, it shall be deemed to have been delivered 48 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Owner at the address given by such person to the Board for the purpose of service of such notice or to the Unit of such person if no address has been given. If notice is by electronic means it shall be deemed to have been delivered 24 hours after the same has been sent. Addresses may be changed by Owners from time to time by notice in writing to the Board.
- b. If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Restated Declaration or these Bylaws may be sent by electronic means, including but not limited to text message, Facebook, Twitter, email, or the Association's website. The Association shall maintain records of all notices sent to Owners by electronic means, including the electronic address to which notice was sent. When a notice is sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well-known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings, proposals, documents, amendments and business to the electronic address of the Owners. The Association secretary shall thereafter send an electronic notice, via email or a comparable electronic means of all Association meetings and business to those Owners who do not object to electronic notification in this manner.
- c. If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's Home, or by securely attaching a copy of the notice to the front entry door of the Owner's Home. Hand delivered notice shall be deemed delivered upon delivery.

3.03 **Waiver.** Owners who (a) request or accept electronic notice, and (b) confirm they have received electronic notice from the Association of any Association business or meeting, are deemed to have waived any defense to or claim against the Association that the Association's electronic notice was not adequate or proper, and may not thereafter challenge or assert that the notice they received was not adequate, proper, or in compliance with the Restated Declaration, the Bylaws, or Utah law.

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- b. If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Restated Declaration or these Bylaws may be sent by electronic means, including but not limited to text message, Facebook, Twitter, email, or the Association's website. The Association shall maintain records of all notices sent to Owners by electronic means, including the electronic address to which notice was sent. When a notice is sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well-known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings, proposals, documents, amendments and business to the electronic address of the Owners. The Association secretary shall thereafter send an electronic notice, via email or a comparable electronic means of all Association meetings and business to those Owners who do not object to electronic notification in this manner.
- c. If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's Home, or by securely attaching a copy of the notice to the front entry door of the Owner's Home. Hand delivered notice shall be deemed delivered upon delivery.

3.03 **Waiver.** Owners who (a) request or accept electronic notice, and (b) confirm they have received electronic notice from the Association of any Association business or meeting, are deemed to have waived any defense to or claim against the Association that the Association's electronic notice was not adequate or proper, and may not thereafter challenge or assert that the notice they received was not adequate, proper, or in compliance with the Restated Declaration, the Bylaws, or Utah law.

CERTIFICATION

It is hereby certified that this Amendment has been consented to and approved by Unit Owners representing seventy-five percent 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 Eastgrove Enabling Declaration and Bylaws.

IN WITNESS WHEREOF, this 23rd day of March, 2015.

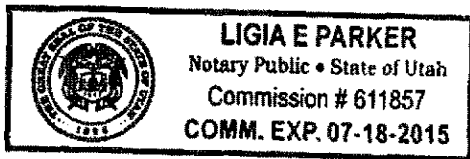
Eastgrove Condominium Board of Directors

By *Terry Caselli*
President

STATE OF UTAH)
 :SS.
COUNTY OF WEBER)

On this 23rd day of March, 2015, personally appeared before me, Terry Caselli, who, being by me duly sworn, did say that he is President of the Eastgrove Condominium Homeowners Association and that the within and foregoing document was signed as an officer of the Association and in behalf of said Association and he duly acknowledged to me he executed the same.

Ligia E Parker
Notary Public



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EXHIBIT "A"**Legal Description of Units**

The following units in the buildings indicated, in Eastgrove Condominium, Ogden City, Weber County, Utah.

Building	Units	Parcel and Tax I.D. Numbers
A	1 through 3	13-158-0001 through 13-158-0003 /
B	4 through 7	13-158-0004 through 13-158-0007 /
C	8 through 9	13-158-0008 through 13-158-0009 /
D	10 through 12	13-158-0010 through 13-158-0012 /
E	13 through 15	13-158-0013 through 13-158-0015 /
F	16 through 17	13-158-0016 through 13-158-0017 /
G	18 through 21	13-164-0001 through 13-164-0004 /
H	26 through 29	13-163-0001 through 13-163-0004 /
I	22 through 25	13-168-0001 through 13-168-0004 /
J	34 through 35	13-177-0001 through 13-177-0002 /
K	36 through 37	13-177-0003 through 13-177-0004 /
L	38 through 39	13-180-0001 through 13-180-0002 /
M	40 through 41	13-180-0003 through 13-180-0004 /
N	32 through 33	13-183-0001 through 13-183-0002 /

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