

After Recording Return To:

Curtis G. Kimble
Ball Janik LLP
2040 Murray Holladay Rd., Suite 106
Salt Lake City, UT 84117

**AMENDMENT TO DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
(INCLUDING OWNER ASSOCIATION BYLAWS)
INDEPENDENCE AVENUE**

A. Certain real property in Utah County, Utah, is subjected to certain covenants, conditions and restrictions pursuant to a Declaration of Protective Easements, Covenants, Conditions and Restrictions recorded June 1, 2007, as Entry No. 80973:2007 in the Recorder's Office for Utah County, Utah, as may have been or may be amended (the "Declaration").

B. This amendment shall be binding against the property subjected to the Declaration and any annexation or supplement thereto, described as follows:

Lots 1 - 24, INDEPENDENCE AVENUE PLAT A, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:058:0001 through 42:058:0024

Lots 25 - 57, INDEPENDENCE AVENUE PLAT B, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:062:0025 through 42:062:0057

Lots 58 - 92, INDEPENDENCE AVENUE PLAT C, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:067:0058 through 42:067:0092

Lots 93 through 128, INDEPENDENCE AVENUE PLAT D, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:076:0093 through 42:076:0128

Lots 129 - 159, INDEPENDENCE AVENUE PLAT E, according to the official plat thereof as recorded in the office of the Utah County Recorder.

Serial # 42:077:0129 through 42:077:0159

C. In order to align past and current practice with the language in the Declaration and Bylaws, and to provide for more desirable provisions, the Independence Avenue Owners Association ("Association") deems it necessary and in the best interests of the Owners to adopt the following amendments to the Declaration and Bylaws.

D. Pursuant to Article XIV, Section 14.02 of the Declaration, the undersigned hereby certifies that all of the requirements to amend the Declaration have been satisfied and that at least 60% of the total outstanding votes in the Association have voted to approve this amendment.

AMENDMENT 1. NOW, THEREFORE, the Association hereby amends **Article IV, Section 4.01** of the Declaration to read as follows:

4.01 Maintenance and Repairs.

4.1.1 Lots. Except to the extent that the Association is responsible for such maintenance under Section 4.1.2, maintenance of the Lots and the Units shall be the responsibility of the Owners thereof, who shall maintain such Lots and Units in good condition and repair. Each Owner at his or her sole expense shall maintain and repair the interior of the Units, including floors and each and every structural element beneath the Unit, exterior windows, window frames, and exterior doors and door frames. In addition to decorating and keeping the interior of the Unit in good repair and in a clean and sanitary condition, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners, refrigerators, dishwasher, disposal equipment, ranges, toilets, or other appliances or fixtures that may be in, or connected with, his or her Lot. Any pipe, conduit, or other utility device or apparatus that services only one Lot shall be the responsibility of that Lot's Owner to maintain, repair, and replace. Each Owner shall be responsible for maintenance, repair and replacement of the landscaping (including grass, flower or planting beds, irrigation lines and fixtures, shrubs and trees) of any portion of a Lot or Limited Common Area which is enclosed by a fence for the benefit and use of the Owner's Unit, including the fence itself. Each Unit and Lot shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit or Lot.

4.1.2 Maintenance by Association. The Association shall provide for, as a Common Expense, the care, maintenance, repair and replacement of the exterior surfaces of the dwelling structures, including siding, and the roofs, gutters and downspouts on such dwelling structures (but not including glass surfaces or the maintenance, repair, or replacement of glass, doors, door frames, windows, window frames and also not including sealing, repairing or otherwise fixing foundations), as well all improvements outside the walls of the dwelling structures on the Lots and improvements on and to the Limited Common Areas (including railings, patios and decks). The Association shall maintain the landscaping (including grass, flower or planting beds, irrigation lines and fixtures, shrubs and trees) upon and within the Landscape Maintenance Easement described in Section 5.08 (but shall have no obligation as to landscaping on any portion of a Lot or Limited Common Area which is enclosed by a fence for the benefit and use of a particular Unit, including the fence itself).

4.1.3 Clarification of Maintenance Responsibilities. To the extent not clarified in the Declaration and not inconsistent with the provisions of the Declaration, the Association may, by duly adopted Board resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities, or (2) Association responsibilities. Such determinations shall be set forth in a Board resolution distributed to all Owners.

AMENDMENT 2. NOW, THEREFORE, the Association hereby amends **Article XI, Section 11.09** of the Declaration to read as follows:

11.09 Quorum. Except as provided in Section 13.08, Owners present in person or by proxy at any membership meeting duly called with proper notice thereof shall constitute a quorum at all meetings, both annual and special.

AMENDMENT 3. NOW, THEREFORE, the Association hereby amends **Article XI, Section 11.13** of the Declaration by deleting the first sentence thereof and inserting the following (all other language in Section 11.13 to remain the same):

11.13 Board of Directors: Composition, Election, Vacancies. The Board shall be composed of seven Directors, unless the Association is unable to fill seven Director positions from among willing Owners, in which event, the Board shall be composed of the number of Directors nominated and qualified to serve, but in no case less than three Directors. Directors must be an Owner or the spouse of an Owner of a Lot. A representative of an entity which owns a Lot, and only one such representative, may serve on the Board, such that a shareholder of a corporation, a member of an LLC, a partner of a partnership, a trustee or beneficiary of a trust, or a personal representative of an estate, may serve on the Board if the corporation, LLC, partnership, trust or estate owns a Lot.

AMENDMENT 4. NOW, THEREFORE, the Association hereby deletes **Article XIII, Section 13.10** of the Declaration and hereby amends **Article XIII, Section 13.08** of the Declaration to read as follows:

13.08 Special Assessments. The Association may levy Special Assessments for the purpose of defraying, in whole or in part: (a) any Common Expense or other expenses not reasonably capable of being fully paid or anticipated with funds generated by Annual Assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to, or replacement of, infrastructure or improvements within the Common Areas. Any such Special Assessment shall be apportioned among and assessed to all Lots in the same manner as Annual Assessments. The Board may authorize a Special Assessment, provided however, that any Special Assessment greater than \$500 per Owner may only be levied if it is first voted upon by the Owners and: (1) the votes cast favoring the action exceed the votes cast opposing the action, and (2) a quorum of 40% of the Owners cast a vote.

AMENDMENT 5. NOW, THEREFORE, the Association hereby amends **Article XIII, Section 13.13** of the Declaration by deleting the first sentence thereof and inserting the following (all other language in Section 13.13 to remain the same):

13.13 Effect Nonpayment; Remedies. Any Assessment (whether Annual, Special or Specific) not received within 10 days of the date on which it, or any installment thereof, becomes due shall be subject to a late charge of \$10, or such other amount determined by the Board, which, together with interest and costs of collection, shall be, constitute, and remain a continuing lien on the affected Lot/Unit.

AMENDMENT 6. NOW, THEREFORE, the Association hereby amends **Article XIV, Section 14.01** of the Declaration by adding the following (all existing language in Section 14.01 to remain the same):

Notwithstanding anything else herein to the contrary, in any circumstance where notice is required to be given to any Owner, the Association may provide such notice by electronic means, including text message, email, or website of the Association, if the Board deems the notice to be fair and reasonable. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means.

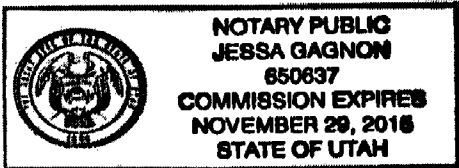
IN WITNESS WHEREOF, the Independence Avenue Owners Association has executed this Amendment to the Declaration as of the 5th day of October, 2015.

**INDEPENDENCE AVENUE
OWNERS ASSOCIATION**
a Utah nonprofit corporation

Sign: Caroline Gross
Print Name: Caroline Gross
Title: HOA Board President

State of Utah)
)
County of Utah)
) :SS

Subscribed and sworn to before me on the 5th day of October, 2015, by
Caroline Gross



Jessa Gagnon
Notary Public