

AMENDMENT
TO THE
COVENANTS, CONDITIONS & RESTRICTIONS
OF
SUNDOWNER CONDOMINIUM

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

RECITALS

WHEREAS, Sundowner Condominium was created by the Declaration of Covenants, Conditions and Restrictions for The Sundowner Condominium ("Enabling Declaration") recorded January 22, 1974, in the Davis County Recorders Office as entry number 390625, in Book 532, beginning on Page 190, which Enabling Declaration has been amended as Sundowner Condominium expanded; and

WHEREAS, Sundowner 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, it is the desire of the unit owners within Sundowner Condominium 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 Sundowner Condominium.

WHEREAS, the unit owners of Sundowner Condominium desire to amend the Governing Documents to preserve and enhance the quality of life at Sundowner Condominium.

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

WHEREAS, the Unit Owners of Sundowner desire to preserve and enhance the quality of life at Sundowner and have purchased their Units at Sundowner 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 are 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, a 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 their Units and depressing the value of all the Units at Sundowner; 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 Sundowner and permitting Sundowner to achieve the objectives described above.

NOW THEREFORE, the unit owners of Sundowner Condominium hereby amend the Governing Documents recorded against the real property located in Davis County, Utah, known as Sundowner 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. The Sundowner Condominium Governing Documents are hereby amended as follows:

AMENDMENT

ARTICLE I RENTAL RESTRICTIONS

- 1.1 **Twenty Percent Cap.** Not more than twenty percent (20%) of the Units within Sundowner may be leased, which leasing must be consistent with the provisions of this Amended Declaration.
- 1.2 **Leases to Comply.** If less than twenty percent (20%) of the Units at Sundowner are occupied by non Unit Owners, an Owner may Lease his or her Unit as set forth below

- 1.3 **Submission to Board.** All leases, subleases, assignments of leases, and all renewals of such agreements shall be first submitted to the Sundowner Board who shall determine if less than twenty percent (20%) of the units in Sundowner are currently rented and to verify compliance with the leasing restrictions of this Amended Declaration.
- 1.4 **Notification of Board.** Any Unit Owner desiring to lease his or her Unit or to have his or 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, 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 twenty percent (20%) of the Units at Sundowner are occupied by a non Unit Owner.
- 1.5 **Restrictions Not Applicable.** The restrictions set forth herein shall not apply:
- 1.5.1 if a unit owner is a member of the military and is required to move from the unit during a period of military deployment and desires to lease the unit during the period of deployment;
 - 1.5.2 if a parent, grandparent or child leases their unit to a family member who is a parent, grandparent, child, grandchild, or sibling of the owner;
 - 1.5.3 to an owner if an employer relocates an owner for a period of less than two years;
 - 1.5.4 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 parent, grandparent, child, grandchild, or sibling of the current resident of the unit; or
 - 1.5.5 if a unit owner desires to lease due to temporary (not more than two years) humanitarian, religious or charitable activity or service, and leases the unit with the intent to return to occupy the unit when the humanitarian, religious or charitable service has concluded.
- 1.6 **Grandfather Clause** Those Units that are occupied by non Unit Owners at the time this Amended Declaration is recorded at the Davis County Records Office may continue to be occupied by non Unit Owners until the (a) Unit Owner transfers ownership of the Unit, (b) Unit Owner occupies the Unit, or (c) 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.

- 1.7 **Transfer of unit.** For purposes of Subparagraph 1.6, a transfer occurs when one or more of the following occur:
- 1.7.1 the owner conveys, sells, or transfers a Unit by deed;
 - 1.7.2 the owner grants a life estate in the Unit; or
 - 1.7.3 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.
- 1.8 **Tracking.** The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Sundowner subject to the provisions described in paragraphs 1.5 and 1.6 above, and shall ensure consistent administration and enforcement of the rental restrictions in this Amended Declaration.
- 1.9 **Units not Counted.** Units leased pursuant to the exceptions contained in paragraphs 1.5 and 1.6 shall not be counted toward the twenty percent (20%) cap on rental restrictions.
- 1.10 **Renting Defined.** As used herein, "Rent" (or any 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 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.
- 1.11 **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 Davis County Recorder.
- 1.12 **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 an individual(s) other than the Unit Owner and the Owner is not occupying the Unit as the Owner's primary residence.
- 1.13 **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 (d) a husband/wife relationship with or without children.
- 1.14 **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 Sundowner is required to retain legal counsel to enforce this Amended Declaration, 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.

- 1.15 **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.
- 1.16 **Guests Permitted.** Nothing herein shall prohibit an Owner from permitting a guest or visitor from residing in his or her Unit, while the Owner is present.

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CERTIFICATION

It is hereby certified that two-thirds (2/3) or more of the unit owners present and voting at a duly called meeting of the Association, at which a quorum was present, voted in favor of adopting this Amendment.

IN WITNESS WHEREOF, this 9 day of Oct, 2012.


Sundowner Homeowners Association, Inc.


By _____
Patricia A. Maurer President

STATE OF UTAH)
 :SS.
COUNTY OF Davis)

On this 9 day of Oct, 2012, personally appeared before me Patricia A. Maurer who, being by me duly sworn, did say that (s)he is President of Sundowner Condominium Homeowners Association, Inc. Board of Directors and that the within and foregoing instrument was signed in behalf of said Association and (s)he duly acknowledged to me (s)he executed the same.





Notary Public

Exhibit A

All of Units A, B, C, D, Building 1, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0001 through 0004]

All of Units A, B, C, D, Building 2, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0005 through 0008]

All of Units A, B, C, D, Building 3, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0009 through 0012]

All of Units A, B, C, D, Building 4, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0013 through 0016]

All of Units A, B, C, D, Building 5, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0017 through 0020]

All of Units A, B, C, D, Building 6, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0021 through 0024]

All of Units A, B, C, D, Building 7, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0025 through 0028]

All of Units A, B, C, D, Building 8, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0029 through 0032]

All of Units A, B, C, D, Building 9, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0034 through 0037]

All of Units A, B, C, D, Building 10, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0038 through 0041]

All of Units A, B, C, D, Building 11, Sundowner Condo Phase 1, Clearfield City, Davis County, Utah.
[09-029-0042 through 0045]

All of Units A, B, C, D, Building 12, Sundowner Condo Phase 2, Clearfield City, Davis County, Utah.
[09-030-0046 through 0049]

All of Units A, B, C, D, Building 13, Sundowner Condo Phase 2, Clearfield City, Davis County, Utah.
[09-030-0050 through 0053]

All of Units A, B, C, D, Building 14, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0054 through 0057]

All of Units A, B, C, D, Building 15, Sundowner Condo Phase 3, Sec 7, Clearfield City, Davis County, Utah.
[09-030-0058 through 0061]

All of Units A, B, C, D, Building 16, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0062 through 0065]

All of Units A, B, C, D, Building 17, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0066 through 0069]

All of Units A, B, C, D, Building 18, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0070 through 0073]

All of Units A, B, C, D, Building 19, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0074 through 0077]

All of Units A, B, C, D, Building 20, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0078 through 0081]

All of Units A, B, C, D, Building 21, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0082 through 0085]

All of Units A, B, C, D, Building 22, Sundowner Condo Phase 3, Clearfield City, Davis County, Utah.
[09-030-0086 through 0089]

All of Units A, B, C, D, Building 23, Sundowner Condo Phase 3, Sec 7, Clearfield City, Davis County, Utah.
[09-030-0090 through 0093]

All of Units A, B, C, D, Building 24, Sundowner Condo Phase 4, Amended, Clearfield City, Davis County,
Utah. [09-031-0094 through 0097]

All of Units A, B, C, D, Building 25, Sundowner Condo Phase 4, Amended, Clearfield City, Davis County,
Utah. [09-031-0098 through 0101]

All of Units A, B, C, D, Building 26, Sundowner Condo Phase 4, Amended, Clearfield City, Davis County,
Utah. [09-031-0102 through 0105]

All of Units A, B, C, D, E, F, Building 27, Sundowner Condo Phase 4, Amended, Clearfield City, Davis
County, Utah. [09-031-0106 through 0111]

All of Units A, B, C, D, Building 28, Sundowner Condo Phase 4, Amended, Clearfield City, Davis County,
Utah. [09-031-0112 through 0115]

All of Units A, B, C, D, E, F, G, H, Building 29, Sundowner Condo Phase 5, Amended, Clearfield City, Davis
County, Utah. [09-183-0001 through 0008]

All of Units A, B, Building 30, Sundowner Condo Phase 5, Amended, Clearfield City, Davis County, Utah.
[09-183-0009 through 0010]

All of Units A, B, C, Building 31, Sundowner Condo Phase 5, Amended, Clearfield City, Davis County, Utah.
[09-183-0011 through 0013]

All of Units A, B, C, D, Building 32, Sundowner Condo Phase 5, Amended, Clearfield City, Davis County,
Utah. [09-183-0014 through 0017]

All of Units A, B, C, D, Building 33, Sundowner Condo Phase 5, Amended, Clearfield City, Davis County,
Utah. [09-183-0018 through 0021]