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St. George

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By TEMPLE TERRACE



**RESOLUTION ADOPTING POLICIES AND RULES  
FOR TOWNHOUSES PURSUANT TO  
THE COVENANTS AND BY-LAWS OF THE  
TEMPLE TERRACE TOWNHOUSES**

THIS RESOLUTION ADOPTING POLICIES AND RULES PURSUANT TO COVENANTS AND BY-LAWS OF THE TEMPLE TERRACE TOWNHOUSES and the Utah Code, Title 57 Chapter 8 and 8a is executed by the Board of Directors of the Temple Terrace Townhouse Association effective

17 Feb, 2011.

**RECITALS**

**WHEREAS**, The Board of Directors of the Association (the "Board") is empowered by Article XVI of the By-Laws of the Temple Terrace Townhouse Association to "adopt and establish by resolution, such rules and regulations as it may deem necessary", and

**WHEREAS**, incidents have occurred and the Association has received inquiries from Owners regarding various maintenance issues, including the responsibility for repairs due to water infiltration, which may be result of ground water, rain, or other sources of moisture, which source may be difficult or impossible to determine, and for the cracking of the foundation walls, basement floors, or garage floors, which may be the result of the usual and normal settling of the structure, such incidents raising the question of at what point of the property (lot) does the responsibility of the individual owner to maintain and repair begin, and

**WHEREAS**, the only areas that the Association has historically maintained are the Common Areas, the roofs, the visible external walls of the Units, including the exterior metal siding, provided that damage to the siding is not caused by owners, invitees, or renters, and the utilities located within the Common Area which provide utilities to all townhouses within the Association; and the Association has always required the individual townhouse owners to take responsibility for repairs to their own units, and

**WHEREAS**, the Association, in order to keep monthly maintenance costs as low as possible, has never maintained or budgeted funds except for on-going operational costs, and the individual Owners have paid for the internal maintenance of their Units and for all expenses to their lots that are not expressly assigned to the Association, and

**WHEREAS**, The Board has determined that it is necessary and desirable to adopt policies, and rules in order to make it clear that the Owner has the duty to maintain the townhouse unit located upon that Owner's "lot", and to define or clarify the Association's maintenance duties regarding "Dwelling Unit Exteriors", has determined that this rule is in the best interests of all the members of the Association.

NOW, THEREFORE. the Board has adopted the following policies, rules, or interpretations:

- A. The express provisions of the governing documents have created "Units" commonly known as "Townhouses" or because the dwelling improvements constructed upon any "Lot" was intended to be privately owned and such units have been historically known as "Townhouses" since 1977.
- B. This interpretation is based (in part) upon the difference between a condominium and a townhouse project, and that difference is the basis of the unit's maintenance allocation herein set forth. In a condominium project, the owner owns the interior airspace, but the foundation and land under the Unit are owned in common and are maintained in common through assessments for those purposes. However, in the Temple Terrace Townhouse Project, each Owner owns his own Lot as set forth in Article I, Section 4 of the Covenants, Conditions, and Restrictions (CC&R), and the townhouse thereon, and the Association does not collect assessments to maintain the townhouses or land, except for items to preserve the common attractive exterior appearance. The owners of adjoining lots in this project have mutual easements for the horizontal and vertical support for the foundations on which common and adjacent walls of their improvements rest, and are solely responsible for the cost of maintaining these shared walls. There are similar easements for support for the Common Area and for the benefits of the Common Area.

C. Article I, Section 4 of the Temple Terrace Townhouse CC&Rs specifies that a "Lot" shall mean and refer to a specific plot of land as shown on the subdivision map but does not include the any part of the Common Area. Section 9 of Article I refers to the "Townhouse" constructed on the lot with walls or roof in common with other such dwellings and includes the fee title to the real property (lot) lying directly below the dwelling unit and therefore includes the front exterior foundation wall beneath the porches. Thus, the front foundation wall, basement, and garage, are built on the owner's lot and are the responsibility of the owner, and any cracks, water intrusions, and related repairs are not the responsibility of the Association. This also applies to cracks in the Unit's basement floor and garage floor.

D. Pursuant to Article VIII of the CC&R which provides that the association has Architectural control of the exterior of the building, and which sets forth the responsibility of owners in the event of damage, or by negligence or willful action, the Association shall only repair the outer surfaces of the walls, metal siding, roof, porches, steps of a townhouse unit, sidewalks, fences, outward surfaces of the foundation located at the ends of the building, and other common area facilities. The outer surfaces of the roof shall mean the roofing materials and plywood sheeting, but not the trusses and interior materials. The outward surfaces of the foundation shall refer only to any painting of the visible surfaces of the foundation at the ends of each building, but not to any cracking or repairs or replacement of the unit's front concrete foundation. The association shall not be responsible for repairs to the front foundation wall, the basement floor, or to the floor of the garage of any dwelling unit. Each Owner shall also be responsible for replacement to carpeting, or other furnishings damaged as the result of water intrusion.,

E. The Board of Directors shall determine, in its sole, reasonable discretion, whether any item of maintenance is an Association responsibility or an Owner's responsibility. The Board may, from time to time, notify the Owners as to particular items of responsibility.

**ADOPTED** by the Board of Directors of the Temple Terrace Townhouse Association, effective on 17 Feb, 2011.

Temple Terrace Townhouse Association

By Myron W. Hatch  
Its President

ATTEST:

Irma Edwards  
Vice President

STATE OF UTAH )  
                  )  
COUNTY OF WASHINGTON )

The foregoing instrument was signed and acknowledged before me this 17<sup>th</sup> day of  
Feb., 2011 by Myron W. Hatch and  
Irma Edwards as President and Vice President respectively of  
Temple Terrace Townhouse Association.

WITNESS my hand and official seal.

Vicki Ann Nelson  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

