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E# 2581204 PG 1 OF 7  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
14-Jun-12 1205 PM FEE \$175.00 DEP T  
REC FOR: HELGESEN WATERFALL & JONES  
ELECTRONICALLY RECORDED

**AMENDMENT**  
**TO THE**  
**COVENANTS, CONDITIONS & RESTRICTIONS**  
**OF**  
**BRIARWOOD CONDOMINIUM**

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

**RECITALS**

WHEREAS, Briarwood Condominium was created by the Declaration of Covenants, Conditions and Restrictions ("Enabling Declaration") dated January 21, 1973, and recorded January 26, 1973, in the Weber County Recorders Office as entry number 586369, in Book 1015, beginning on Page 150; and

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

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

WHEREAS, Briarwood Condominiums ("Briarwood") desires to amend the Declaration to place reasonable restrictions on the percentage of renters who may occupy Units at Briarwood; and

WHEREAS, the Unit Owners of Briarwood desire to preserve and enhance the quality of life

at Briarwood and have purchased their Units at Briarwood 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 Briarwood; 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 Briarwood and permitting Briarwood to achieve the objectives described above.

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

## **AMENDMENT**

### **ARTICLE I RENTAL RESTRICTIONS**

- 1.1 Not more than ten percent (10%) of the Units within Briarwood may be leased, which leasing must be consistent with the provisions of this Amended Declaration.
- 1.2 Not more than ten percent (10%) of the Units at Briarwood may be occupied by non Unit

Owners at any one time. If less than ten percent (10%) of the Units at Briarwood are occupied by non Unit Owners, an Owner may Lease his or her Unit as set forth below.

- 1.3 All leases, subleases, assignments of leases, and all renewals of such agreements shall be first submitted to the Briarwood Board who shall determine if less than ten percent (10%) of the units are currently rented and to verify compliance with the leasing restrictions of this Amended Declaration.
- 1.4 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 ten percent (10%) of the Units at Briarwood are occupied by a non Unit Owner.
- 1.5 The restrictions herein shall not apply: (a) 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; (b) 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; (c) to an Owner if an employer relocates an Owner for a period of less than two years; (d) if a Unit Owner moves from a Unit due to temporary (less than three 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, 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 parent, grandparent, child, grandchild, or sibling of the current resident of the Unit.
- 1.6 Those Units that are occupied by non Unit Owners at the time this Amended Declaration is recorded at the Weber County Recorders 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 For purposes of Subparagraph 1.6, a transfer occurs when one or more of the following occur: (a) the owner conveys, sells, or transfers a Unit by deed; (b) the owner grants a life estate in the Unit; or (c) 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 The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Briarwood 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 that are leased pursuant to the exceptions contained in paragraphs 1.5 and 1.6 shall not be counted toward the ten percent (10%) cap on rental restrictions.
- 1.10 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 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.
- 1.12 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" 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 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 Briarwood 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 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 Nothing herein shall prohibit an Owner from permitting a guest or visitor from residing in his or her Unit, while the Owner is present.

## ARTICLE 2 SEVERABILITY

- 3.1 If any of the provisions of this Amendment, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Amendment and the application of any such provision, paragraph, sentence, phrase or word in any other circumstances shall not be affected thereby.

**CERTIFICATION**

It is hereby certified that a majority of the unit owners present and voting at a meeting of the Association at which a quorum was present voted in favor of this amendment as set forth in the Amendment to Bylaws and Declaration of Covenants, Conditions and Restrictions of Briarwood Condominium Project, recorded on September 15, 1980, as entry number 819669, in Book 1366, Page 217, at the Weber County Recorders Office .

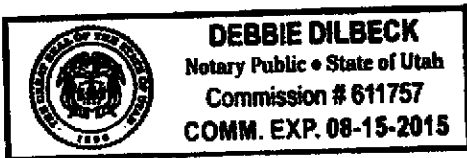
IN WITNESS WHEREOF, this 13<sup>th</sup> day of June, 2012.

Briarwood Condominium Homeowners Association, Inc.

By [Signature]  
President

STATE OF UTAH                    )  
  :ss.  
COUNTY OF WEBER            )

On this 13 day of June, 2012, personally appeared before me Theron L. Palmer who, being by me duly sworn, did say that (s)he is President of Briarwood 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.



[Signature]  
Notary Public

**EXHIBIT "A"****Legal Description of Units at Briarwood Condominium**

The following units are located in the buildings indicated

<b>Building</b>	<b>Units</b>	<b>Tax I.D. #</b>
A	1 through 8	13-142-0001 through 0008
B	9 through 12	13-142-0009 through 0012
C	13 through 16	13-142-0013 through 0016
D	17 through 24	13-142-0017 through 0024
E	25 through 28	13-142-0025 through 0028
F	29 through 36	13-142-0029 through 0036
G	37 through 44	13-142-0037 through 0044
H	45 through 52	13-142-0045 through 0046 13-143-0001 through 0006
I	53 through 60	13-143-0007 through 0014
J	61 through 64	13-143-0015 through 0018
K	65 through 72	13-143-0019 through 0026
L	73 through 80	13-143-0027 through 0034
M	81 through 88	13-143-0035 through 0042
N	89 through 96	13-143-0043 through 0046 13-144-0001 through 0004
O	97 through 102	13-144-0005 through 0010
P	103 through 108	13-144-0011 through 0016
Q	109 through 112	13-144-0017 through 0020
R	113 through 116	13-144-0021 through 0024
S	117 through 120	13-144-0025 through 0028
T	121 through 126	13-144-0029 through 0034
U	127 through 132	13-144-0035 through 0040
V	133 through 138	13-144-0041 through 0046

**Briarwood Condominiums Project Inc.  
Units that are occupied by non Unit Owners  
as per paragraph 1.6 in Amendment**

<u>Owner</u>	<u>Number of Units</u>	<u>Address</u>
Linda Anderson	One	1304 Millcreek #3
Sandra Arnow	One	1372 Millcreek #5
Valerie Marsh	One	1385 Lori Lane #2
Rod Branz (Family)	One	1320 Lori Lane #2
Lori Chambers	Two	1372 Millcreek #6 1298 Lori Lane #6
Shanna Clark	One	1384 Millcreek #2
Kellie Bosgieter (Family)	One	1345 Lori Lane #6
Ferrin Jenkins	One	1373 Lori Lane #1
Norma Jean Kritsonis	One	1298 Lori Lane #3
Allen Lee	One	1372 Millcreek #4
Steven Miller	One	1384 Millcreek #4
Jeremy Priest (Family)	One	1384 Millcreek #1
Theron Palmer	Two	1297 Lori Lane #5 1297 Lori Lane #7
Marsha Olson	One	1297 Lori Lane #3
Codee Stephens	One	1320 Lori Lane #4
Betty Jo White	One	1320 Lori Lane #3
L R Wood	One	1317 Lori Lane #4
Alex Ward	One	1304 Millcreek #2
<b>Total Number</b>	<b>Twenty</b>	