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ERNEST D ROWLEY, WEBER COUNTY RECORDER  
22-MAR-13 443 PM FEE \$60.00 DEP JKC  
REC FOR: CHERRYWOOD CONDO

AMENDMENT TO THE ENABLING DECLARATION  
OF THE  
CHERRYWOOD CONDOMINIUMS RENTAL POLICY  
MARCH 2013

This Amendment to the Enabling Declaration of Cherrywood Condominiums has been voted on and approved by the unit owners of Cherrywood Homeowners Association, Inc. ("Association") in accordance with the provisions in the Cherrywood Condominiums ("Cherrywood") Enabling Declaration and Bylaws.

RECITALS

- A. The members of the Cherrywood Homeowners Association desire to preserve a first class facility with maintenance and improvements typically evident in owner occupied properties. The Association also seeks to maintain owner liquidity by preserving access to conventional financing by unit buyers through the Federal Housing Administration (FHA) and the secondary mortgage market.
- B. FHA and secondary mortgage markets maintain underwriting standards which restrict the percentage on non-owner occupied that can exist in a condominium complex. When the non-owner occupancy exceeds underwriting standards, resale of units can be impeded and require reliance upon owner financing or unconventional financing, often at higher rates of interest. Current FHA standards, also accepted in the secondary mortgage market, permit not more than 50% of the units be non-owner occupied. Underwriting standards concerning owner occupancy can and have changed based upon market conditions and perceived risk.
- C. Cherrywood Homeowners Association determines that the ability of unit buyers to access mortgage financing through FHA or through conventional lenders who access the secondary mortgage market is necessary to preserve the value of all the units at Cherrywood Condominiums and therefore in the best interest of unit owners.
- D. In August 2012, Cherrywood Homeowners Association voted to amend the Enabling Declaration of Cherrywood Condominiums, recorded in Weber County on April 16, 1979 as entry #773733, to place reasonable restrictions on the number of non-owner occupied units so all buyers will have the ability to obtain financing at competitive market prices and qualify for all types of financing.
- E. The property that is the subject of this Amendment Declaration 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 Cherrywood Condominiums, as recorded in the office of the County Recorder for Weber County, State of Utah. There are 44 Units at Cherrywood Condominiums.

NOW THEREFORE, the unit owners of Cherrywood Condominiums hereby amend the Enabling Declaration recorded against the real property located in Weber County, State of Utah, known as Cherrywood Condominiums. If there is any conflict between this amendment and the Enabling Declaration, this Amendment shall control.

#### AMENDMENT

1. **RESTRICTION ON LEASING UNITS:** There shall be no leasing of units at Cherrywood Condominiums unless the leasing is consistent with the provisions of this Amendment.
2. **PERCENTAGE LIMIT ON LEASES:** Not more than twenty percent (20%) or eight (8) units at Cherrywood Condominiums may be leased or rented during the same period of time.
3. **AUTHORITY TO LEASE:** An owner seeking to lease a unit within the Cherrywood Condominiums shall submit a written request for authorization to lease the unit to the Cherrywood Management Committee. The Management Committee may specify a standard form to be used in seeking authorization to lease a unit. A request for authorization shall include: (a) a copy of license and/or permits required by the City of Ogden for the rental of residential property for the unit which authorization is sought, (b) the standard form required by the Management Committee to include the name, phone number, and email address of a lessee/renter and other information as the Committee may specify, (c) an acknowledgement that the proposed lessee has obtained and reviewed a copy of the rules and regulations of the Cherrywood Condominium, (d) a copy of the rental agreement including a provision which includes the lessee's adherence with the rules and regulations of the Cherrywood Condominiums as a condition of occupancy. The rental agreement shall also include a place for signature by the authorized representative of the Management Committee acknowledging receipt.
4. **ELIGIBILITY TO LEASE:** An owner, excepting owners subject to Section 7, shall be eligible to seek authorization to lease a unit only if they have previously occupied their unit for a period of not less than twenty-four (24) consecutive months.
5. **TERM OF AUTHORIZATION:** The Management Committee's authorization is limited to the term of occupancy pursuant to the endorsed rental agreement. For the purposes of the amendment, no rental agreement eligible for endorsement shall permit sub-lease or other assignment of the rental agreement. Each subsequent occupancy of a unit by succeeding tenants requires review and approval by the Management Committee.
6. **REVIEW AND APPROVAL BY MANAGEMENT COMMITTEE:** The Management Committee shall evaluate all requests for a lease of a unit. The evaluation shall determine if the request conforms to the twenty percent (20%) limit established in Section 2. The Management Committee shall also determine if the information required by Section 3 is complete and in compliance with other sections of the Amendment. The Management Committee may provide tentative approval of a written request at a regular meeting prior to identification of a tenant. Pending the receipt of tenant information, rental agreement and acknowledgements required in Section 3, the Management Committee may designate a member to provide final approval. Final approval of a lease/rental occupancy shall be provided through

an endorsement of the submitted rental agreement and reflected in the minutes of the Management Committee. Final action on a request shall be provided by the Management Committee or the Committee's designee not more than ten days following the receipt of all required information.

7. **GRANDFATHERED LEASED UNITS:** The Management Committee shall inventory and record a list of units that are occupied by lessee/renters at the time this Amendment is recorded. To qualify as an inventoried grandfather unit, the owner shall submit to the Management Committee information required by Section 3. The list shall be published as a part of the minutes of the Management Committee meeting. Inventoried units are pre-authorized for continued occupancy for a period of three years from the date the Amendment is recorded or through the period of remaining occupancy by a tenant who occupies a unit three years from the date the Amendment is recorded. The units inventoried by the Management Committee under this section shall be included among the twenty percent limit provided under Section 2. The owners of units authorized for rental occupancy under this Section shall apply for any subsequent occupancy following three years following the recording of this Amendment pursuant to Section 3.

8. **EXCEPTIONS:** The Management Committee may permit authorizing exceptions to Section 2, limiting not more than 20% of the units be leased at any one time in limited situations. Exceptions provided for under this section shall be limited to not more than four additional units for a total of twelve (12) units or thirty percent (30%) of the units in the Cherrywood Condominiums. The Management Committee may grant exceptions for the following situations: (a) during a period in which an owner who is a member of military, including active duty or reserves, is deployed for combat or emergency services operations, (b) lease occupancy by an immediate family member of an owner, including a spouse, brother, sister, father, mother, son, daughter, grandparents or grandchildren, (c) owners who intend to return as residents after a temporary absence, not to exceed two years, and (d) owners who are relocated by an employer. Owners seeking to obtain rental authorization under this section shall submit information required under Section 3 with additional details concerning the circumstances under which the request is filed.

9. **COMMUNICATIONS:** In addition to the Management Committee minutes, owners shall be kept informed by newsletter of the number of leases/rental units within the Cherrywood Condominiums.

10. **COMPLIANCE:** Unit Owner who violates this Amendment shall be subject to a complaint for damages and/or an injunction and order seeking to terminate the lease in violation of this Amendment. If the Cherrywood Homeowner Association is required to retain legal counsel to enforce this Amendment, with or without the filing of legal process, the violating unit owner shall be liable for all attorney fees and court costs incurred by the Management Committee in enforcing this Amendment. Notwithstanding approval of a lease or rental tenancy by the Management Committee, unit owners retain the responsibility for assuring that lessees or tenants comply with Cherrywood Condominiums covenants, restrictions, bylaws and rules. The owner is liable for remedy of any violations and any associated fines or penalties.

11. RENT OR LEASE DEFINED: As used herein, "rent" (or any variation of the word) or "lease" (or any variation of the word) means a unit that is occupied by one or more non-owners during a period in which the unit owner is not in residence. The rental or lease occupancy may or may not involve the payment of remuneration to an owner by a non-owner.
12. NON OWNER DEFINED: As used herein, "non- owner" means an individual or entity that is not an owner of the occupied unit as shown on the records of the Weber County Recorder.
13. 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 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 maintains no residency of the unit.
14. 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.

CERTIFICATION

It is hereby certified that the contents of this Amendment has been approved by vote of the unit owners representing at least sixty-seven percent or more of the Percentage Interest of the unit owners at Cherrywood Condominiums, who were present in person or represented by proxy at a meeting of the Association at which a quorum was present. It is further certified that this Amended Declaration has been properly adopted according to the requirements of the Cherrywood Enabling Declaration and Bylaws.

IN WITNESS WHEREOF, this 22 day of March, 2013

Cherrywood Condominiums Management Committee

By Maureen Finley Chairman

STATE OF UTAH )

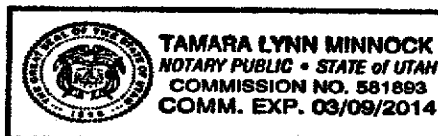
:SS.

COUNTY OF WEBER )

On this 22<sup>nd</sup> day of March, 2013, personally appeared before me, Marlene Finley, who, being by me duly sworn, did say that she is Chairman of the Cherrywood Homeowners Association and that the within and foregoing document was signed as an officer of the Association and in behalf of said Association and she duly acknowledged to me she executed the same.

NOTARY PUBLIC

Tamara Lynn Minnock



## EXHIBIT "A"

## Legal Description of Units

The following units in the buildings indicated, in Cherrywood Condominiums,  
Ogden City, Weber County, Utah.

Building	Units	Tax I.D. Numbers	
A-1	1 through 2	13-159-0001 through 13-159-0002	✓ NP
B-1	3 through 6	13-159-0003 through 13-159-0006	✓ NP
B-2	7 through 10	13-159-0007 through 13-159-0010	✓ NP
A-2	11 through 12	13-159-0011 through 13-159-0012	✓ NP
A-3	13 through 14	13-159-0013 through 13-159-0014	✓ NP
A-4	15 through 16	13-159-0015 through 13-159-0016	✓ NP
B-3	17 through 20	13-159-0017 through 13-159-0020	✓ NP
B-4	21 through 24	13-159-0021 through 13-159-0024	✓ NP
A-5	25 through 26	13-159-0025 through 13-159-0026	✓ NP
D-1	27 through 36	13-159-0027 through 13-159-0036	✓ NP
C-1	37 through 40	13-159-0037 through 13-159-0040	✓ NP
C-2	41 through 44	13-159-0041 through 13-159-0044	✓ NP