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Chad Montgomery Box Elder County Utah Recorder

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For HELGESEN HOUTZ & JONES

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2019

AMENDED
DECLARATION

CENTENNIAL ESTATES

Housing for Older Persons Act

MARCH 2019

2019
AMENDED
DECLARATION
FOR
CENTENNIAL ESTATES
(HOA)

This Amendment to the Declaration of Covenants, Conditions and Restrictions for Centennial Estates (“2019 Amendment”) is made and executed on the date shown below by the Lot Owners at Centennial Estates, a Cluster Subdivision, (“Centennial Estates”), after having been voted on and approved by the Owners at Centennial Estates.

RECITALS

WHEREAS, Centennial Estates was created by the recording of the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Centennial Estates, a Cluster Housing Development Subdivision (“Enabling Declaration”) in the records of Box Elder County, Utah, on July 14, 1997, as entry number 100168, in book 0652, beginning on page 0891, which Enabling Declaration has been amended from time to time, including but not limited to the Amended Declaration for Centennial Estates, recorded July 15, 2013, as Entry Number 327639, in the Box Elder County Recorders Office; and

WHEREAS, the property that is the subject of this 2019 Amendment is situated in and upon that certain real property located in Box Elder 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 lot as shown on the plat maps for Centennial Estates, as recorded in the office of the County Recorder for Box Elder County, State of Utah. There are 18 lots at Centennial Estates; and

NOW THEREFORE, To accomplish the Lot Owners’ objectives, the following amendment is hereby adopted. If there is any conflict between this 2019 Amendment, the Enabling Declaration, or any amendments to the Enabling Declaration, this document shall control. This 2019 Amendment shall become effective upon recording. The Centennial Estates Enabling Declaration is hereby amended as follows:

AMENDMENT

ARTICLE I **HOUSING FOR OLDER PERSONS**

1.1 Centennial Estate's Intent To Comply With HOPA

- a. Centennial Estates is unique in its intent to provide housing primarily for persons 55 years of age or older. Centennial Estates operates its community for occupancy by persons fifty-five (55) years of age or older. At least ninety (90%) percent of the occupied units are currently occupied by at least one person who is fifty-five (55) years of age or older. This reflects Centennial Estates's intention to comply with provisions of HOPA, which outlines the requirements for qualification for housing for older persons exemption established by the Fair Housing Act.
- b. As a part of Centennial Estates's intent to operate as housing designed for persons who are fifty-five (55) years or older, Centennial Estates shall advertise in a manner designed to attract such prospective residents who are also fifty-five (55) years or older. Centennial Estates shall do this by requiring that all sales proposals, contracts, and lease provisions entered into by unit owners shall provide notice of its intent to operate housing primarily designed for persons fifty-five (55) years or older.
- c. Centennial Estates will publish and adhere to these policies demonstrating its intention to qualify for this exemption, including compliance with all rules issued by the State of Utah or HUD for the verification of occupancy in the community.
- d. As a part of Centennial Estates's intention to comply with the individual provisions of HOPA, any Declarations, Community Rules, or Bylaws now existing or hereafter adopted in violation or contradiction to the provisions of state and federal law are void and without effect.

1.2 Use of Units

- a. Each Centennial Estates unit is intended to be used for single family residential purposes, and is restricted to such use. No unit shall be used for business or commercial activity.
- b. Guests or visitors of Centennial Estates are accommodated only when such accommodation does not infringe upon the convenience or right of enjoyment of the other residents and other occupants.
- c. A person shall be deemed a resident for purposes of this section when residing in a unit for a period of twenty-one (21) days in any forty (40) day period. Renters are considered to be residents and are subject to the restrictions contained in the

Declaration and the Rules.

- d. As a community designed primarily for persons who are fifty-five (55) years of age or older, Centennial Estates requires that all units shall be occupied by at least one person fifty-five (55) years of age or older until at least ninety (90%) percent of the units are occupied by at least one person who is fifty-five (55) years of age or older.
- e. Any contracts, leases, or proposals to sell or rent units at Centennial Estates shall clearly state and give notice that Centennial Estates is a community designed as an over fifty-five (55) years of age community.
- f. Centennial Estates, by maintaining ninety (90%) percent of the units as an over fifty-five (55) year old community, may allow the remaining ten percent (10%) percent of the occupied units to be occupied by persons under fifty-five (55) years of age. However, in no circumstances shall any resident of Centennial Estates be under the age of forty (40) years of age.
- g. Individuals residing in a unit as a reasonable accommodation to a resident with a disability (as defined under the Americans with Disability Act (ADA)), shall not be counted in meeting the 90% requirements nor be included in determining the minimum age requirement. This exemption shall ensure that Centennial Estates does not violate the ADA by nor HOPA requirements by authorizing reasonable accommodations for residents who, because of a disability, require an attendant, including family members under the age of forty (40) to reside in their unit in order for that person to benefit from the ownership of his or her unit.

1.3 Good Faith Defense Against Money Damages

- a. Centennial Estates, in seeking to rely on HOPA's good faith defense, finds that the board of directors or individuals residing at Centennial Estates shall not be held personally liable for monetary damages where such person(s) acted in good faith in belief that Centennial Estates qualifies for a housing primarily for older persons exemption.
- b. Centennial Estates has through authorized representatives asserted in writing that it qualifies as housing for older persons and thus, individuals of Centennial Estates shall qualify for this good faith belief defense.

1.4 Verification of Occupancy

- a. By virtue of being a 55-years of age or older community, ninety (90%) percent of the Centennial Estates units must be occupied by at least one person fifty-five (55) years of age or older. In determining whether Centennial Estates meets the 90% requirement, the occupants of the dwelling units will be counted, and not the owners.

- b. Centennial Estates will comply with federal and state regulations through use of reliable surveys and affidavits. The following documents are considered reliable for age verification of unit occupants and may be shown by the following:
 - c. Birth certificate, drivers license, passport, immigration card, military identification, or any other state, local or national documentation, provided it contains current information about the unit occupants age or birth.
 - d. A self certification in the lease, application affidavit, or other document signed by an adult member of the household asserting that at least one of the unit occupants is 55 years of age or older will also satisfy age verification under this subject.
 - e. Centennial Estates HOA may, if it has sufficient evidence, consider the household to be occupied by at least one person who is 55 years or older.
 - f. Statements made under penalty of perjury from third party individuals who have knowledge of the age of the unit occupants may be used when the household itself refuses to cooperate by providing age verification. Other information, such as statements indicating age in prior applications may also be acceptable. Centennial Estates may base its decision for age verification on government documents such as census data.
 - g. Centennial Estates will survey its current list of residents once every two years in October of odd years to ensure that at least ninety (90%) percent of the residents are fifty-five (55) years of age or older. The remaining ten (10%) percent of the occupied units may be occupied by persons under the age of fifty-five (55), but who must be at least forty (40) years of age and over.
 - h. Centennial Estates will retain the records of the survey so long as it intends to maintain its age exempt status.
 - i. As a result of Centennial Estates adopting these rules, and in order to maintain a primarily over fifty-five (55) year old community, the Centennial Estates Management Committee is authorized and empowered to bring legal action as the result of any violations or non-compliance with any of the above age restrictive rules found in the Declarations or Community Rules. Centennial Estates is entitled to evict any residents who lease or purchase a unit in violation of the HOPA requirements, or to void any contract for sale, and to collect from the offending party and owner of the unit any and all costs and fees, including reasonable attorney fees, from the party who seeks to sell or lease a unit or who seeks to purchase or lease a unit in violation of any of the provision herein or in violation of any of the provisions of HOPA. Any contracts, leases, sales or rental agreements entered into in violation of the age restrictive requirements are also void and may result in legal action and eviction from the Centennial Estates.

- j. As of the date of adoption of this Amendment to the Centennial Estates' Enabling Declaration, any current resident under the age of forty (40) years old, shall be permitted to continue residing in Centennial Estates until their unit is sold or their lease expires.
- k. Prior to any unit owner selling or leasing his or her unit, they shall first contact the management committee, in writing, to obtain written authorization from the management committee to sell or lease their unit to a person 55 years of age or older (to maintain the 90% standard), or to sell or lease their unit to a person 40 years of age or older (to maintain the minimum age requirement).

CERTIFICATION

It is hereby certified that more than 51% of the Lots Owners voted to approve this 2019 Amendment.

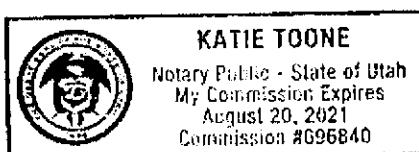
IN WITNESS WHEREOF, this 25 day of March, 2019.

CENTENNIAL ESTATES

By Kathleen Johnson
President

STATE OF UTAH)
:ss.
COUNTY OF BOX ELDER)

On this 25th day of March, 2019, personally appeared before me Kathleen Johnson, who, being by me duly sworn, did say that she is President of the Centennial Estates 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.



Katie Toone
Notary Public

EXHIBIT "A"

Legal Description of Lots

All Lots and Common Area within Centennial Estates, a Cluster Housing Development Subdivision, Box Elder County, Utah.