

Cherrywood Due
1120 Canyon Road
Ogden, Utah 84404
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AMENDMENT TO ENABLING DECLARATION

OF

CHERRYWOOD CONDOMINIUMS

(Phase No. 1)

THIS AMENDMENT is made by CHERRYWOOD CONDOMINIUMS, a Utah Limited Partnership (hereinafter referred to as "Declarant").

1. Original Declaration. Pursuant to the Utah Condominium Ownership Act, as amended, the Enabling Declaration (hereinafter the "Declaration") of Cherrywood Condominiums (Phase No. 1) (hereinafter "Phase No. 1") was duly executed by Declarant and recorded on April 16, 1979 in the Official Records of Weber County, State of Utah, in Book 1297, pages 540 and following as Entry No. 773733.

13-10001-0001 rev 2/24
2. Original Record of Survey Map. Concurrently with the recording of the Declaration there was recorded the Record of Survey Map (hereinafter the "Map") for Phase No. 1. The Map consists of five sheets and was recorded in the Official Records of Weber County, State of Utah, in Book 22 of Plats, pages 16 to 20 as Entry No. 773731.

3. Original Description. Subject to and together with certain exceptions, rights, powers, reservations, easements, and rights-of-way described therein, the Declaration and Map submitted to the provisions of the Utah Condominium Ownership Act, as amended, the following described real property situated in Weber County, State of Utah:

A part of the Northeast Quarter of Section 21, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U. S. Survey.

Beginning at a point which is South 1628 feet, West 504.5 feet, N. $89^{\circ}09'45''$ W. 270.23 feet, and S. $1^{\circ}06'45''$ W. 300 feet from the Northeast Corner of said Section 21.

Said beginning point is also S. $89^{\circ}09'45''$ E. 616.17 feet, S. $0^{\circ}50'15''$ W. 33.0 feet and S. $1^{\circ}06'45''$ W. 300 feet from Ogden City Monument No. 223 ("A" station 193+64.53 and "B" station 146+02.20) and running thence:

East 490.00 feet; thence South, 200.00 feet; thence East, 100.00 feet; thence South, 116.10 feet to the North Right of Way line of Canyon Road; thence along said North Right of Way line S. $62^{\circ}25'$ W., 378.18 feet and S. $57^{\circ}55'$ W., 90.00 feet; thence N. 44° W., 170.00 feet; thence N. $16^{\circ}46'09''$ W., 223.21' feet; thence N $1^{\circ}06'45''$ E., 203.05 feet to the point of beginning.

4. Declarant's Right to Amend. Section 25 of Article III of the Declaration reserved unto Declarant " - - - until all but five Units of the entire Project have been sold" the right to amend the Declaration or the Map, subject to qualifications therein contained. Declarant is the owner of all Units in the Project. Accordingly, the Declaration is amended in the respects set forth in the following Paragraphs 5 through 15, and the By-Laws attached as Exhibit D to the Declaration is amended as set forth in Paragraph 16 of this Amendment.

5. Article III, Section 1. ADD THE FOLLOWING:

"All patios shown on the Map are also Limited Common Areas".

6. Article III, Section 14(a). Delete in its entirety:

"(a) Each Unit owner and each person lawfully residing in a Unit located on any portion of the land described

as Additional Land on Exhibit "C" hereto is hereby granted a non-exclusive right and easement of enjoyment in common with others of the amenities and recreational facilities constituting a portion of the Common Areas of the Project."

Substitute in lieu thereof:

"(a) All Owners of Units contained within the Tract described in Exhibit "A" of this Declaration, and all Unit Owners located on any portion of the land described as Additional Land on Exhibit "C" (all future phase or phases), are hereby granted a non-exclusive right and easement of enjoyment in common with the others of the amenities and recreational facilities constituting a portion of the Common Areas of the Project".

7. Article III, Section 19. Delete in its entirety:

"19. Agreement to Pay Assessment. Each Owner of any Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Committee to pay to the Committee annual assessments made by the Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner hereinafter provided."

Substitute in lieu thereof:

"19. Agreement to Pay Assessment. Declarant, for each Unit owned by it within the Project, hereby covenants, and

each Owner of any Unit by the acceptance of a deed therefor, whether or not be so expressed in the deed, or by entering into a sale or purchase contract, shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner hereinafter provided.

8. Article III, Section 19(c). ADD THE FOLLOWING AT THE END THEREOF:

"Such assessment shall commence as to Units sold from the date of closing of sale, and as to all unsold Units no later than sixty (60) days from the date of closing of the first Unit sold."

9. Article III, Section 21(c). Delete in its entirety

"(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager (including, but not limited to, employees of professional managers) employees, or volunteers are responsible for handling funds belonging to and administered by the Association. The fidelity bond or insurance must name the Association as the obligee and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated

annual operating expenses and reserves unless a greater amount is required by Federal National Mortgage Association (FNMA). In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. All fidelity bond coverage shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the servicer on behalf of FNMA."

Substitute in lieu thereof:

"(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager (including, but not limited to, employees of professional managers) employees, or volunteers are responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the obligee and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual operating expenses and reserves unless a greater amount is required by the Mortgagee or its designee. In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. All fidelity bond coverage shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written

notice to the servicer on behalf of Mortgagee or its designee".

10. Article III, Section 27. Delete in its entirety
from the Declaration and substitute no provision therefor.

11. Article III, Section 29(h). Delete in its
entirety:

"(h) Each holder of a first mortgage lien on a Unit who obtains title to a Unit by virtue of remedies provided in the Mortgage, and including but not limited to, foreclosure of the mortgage, or by deed of assignment in lieu of foreclosure, shall take the Unit free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Unit which accrue prior to the acquisition of title of such Unit by Mortgagee, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all Project Units including the mortgaged Unit".

12. Article III, Section 29(k). Delete in its
entirety:

"(k) Unless at least seventy-five percent of the institutional holder of a first Mortgage (based on one vote for each Mortgage owned) of Units have given their prior written approval neither the Management Committee, Declarant, nor the Association shall:

Substitute in lieu thereof:

"(k) Unless at least 75% of the institutional holders of first Mortgages (based on one vote for each Mortgage owned) of Units have given their prior written approval, neither the Management Committee, Declarant, Owners, nor the Association shall:"

13. Article III, Section 29(k)(1). Delete in its entirety:

"1. The holders of first mortgages (or trust deeds) shall have the right to (i) examine the books and records of the Project during normal business hours; and (ii) written notice of all meetings of the Association and to be permitted to designate a representative to attend all such meetings."

Substitute in lieu thereof:

"1. Any institutional holder of a first Mortgage on a Unit in the Project shall, upon request, be entitled to: (i) inspect the books and records of the Project during normal business hours; (ii) receive an annual audited financial statement of the Project within 90 days following the end of any fiscal year of the Project; and (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings".

14. Article III, Section 29(n). Delete in its entirety with no substitution therefor:

"(n) At least 80% of the Units in the Project must be sold to individuals for use as their primary year around residence".

15. Article III, Section 25(b). Delete in its entirety with no substitution therefor.

16. Amendment of By-Laws attached to the Declaration as Exhibit D: Article II, Section 4. Delete first sentence in its entirety:

"The first annual meeting of the Association to elect the Management Committee shall be held on a date to be determined by the Declarant, which date shall be no later than

ninety (90) days after Units representing ninety (90) percent of the Percentage Interests have been legally conveyed by the Declarant to purchasers thereof or seven (7) years after the recording of the Declaration, whichever shall first occur".

Substitute in lieu thereof:

"The first annual meeting of the Association to elect the Management Committee shall be held on a date to be determined by the Declarant, which date shall be no later than ninety (90) days after Units representing seventy-five percent (75%) of the Percentage Interests have been legally conveyed by the Declarant to purchasers thereof or two (2) years after the recording of the Declaration, whichever shall first occur".

17. Effective Date. The effective date of this Amendment shall be the date on which this Amendment is filed for record with the office of the County Recorder of Weber County, State of Utah.

IN WITNESS WHEREOF, Declarant has executed this instrument this 31 day of MARCH, 1980.

CHERRYWOOD CONDOMINIUMS,
A Utah Limited Partnership

By: Hoyle F. Kelley
HOYT F. KELLEY, General Partner

STATE OF UTAH)
County of Weber) : ss.

On this 31 day of MARCH, 1980, personally

appeared before me HOYT F. KELLEY, who duly acknowledged to me that he is the General Partner in Cherrywood Condominiums, a Utah Limited Partnership, and that he executed the foregoing instrument as the General Partner in, and on behalf of, said Limited Partnership.

Michael Kelley
NOTARY PUBLIC
Residing at: CGDEN, UTAH

My Commission Expires:

JAN 29, 1983