

Amendment
to the
Condominium Declaration
for
Davis Townhomes Condominiums
A Condominium Project

This Amendment to the Condominium Declaration for Davis Townhomes Condominiums ("Amendment"), is made and executed on the date shown below after being voted on and approved by the owners of units at Davis Townhomes Condominiums ("Davis Townhomes") in accordance with the governing documents of the Davis Townhomes HOA ("Association").

RECITALS

WHEREAS, Davis Townhomes was created by the "Condominium Declaration for Davis Townhomes Condominiums" ("Enabling Declaration") recorded in the Davis County Recorders office on July 13, 1999, as Entry #1531469; and

WHEREAS, the Enabling Declaration was restated by the "Condominium Declaration for Davis Townhomes Condominiums" ("Restated Declaration") recorded in the Davis County Recorders office on August 21, 2009, as Entry #2476931; and

WHEREAS, an "Amended Declaration" ("Amended Declaration") was recorded in the Davis County Recorders Office on April 11, 2011 as Entry #2593544; and

WHEREAS, the property that is the subject of this Amended Declaration is situated in and upon that certain real property located in Davis 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 Davis Townhomes, as recorded in the office of the County Recorder for Davis County, State of Utah. There are 9 units at Davis Townhomes; and

WHEREAS, the Association is responsible for the enforcement of the provisions of the Declaration, Restated Declaration, amendments to the Declaration, and the Association Bylaws (collectively referred to as the "Governing Documents"); and

WHEREAS, it is the desire of the unit owners within the Association 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 the Association; and

WHEREAS, the Unit Owners of Davis Townhomes desire to amend the Governing Documents to preserve and enhance the quality of life at Davis Townhomes by placing reasonable restrictions on the percentage of renters who may occupy Units at Davis Townhomes; and

WHEREAS, the Unit Owners of Davis Townhomes desire to preserve and enhance the quality of life at Davis Townhomes and have purchased their Units at Davis Townhomes 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 is 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 a Non Owner-occupied Units that can exist in a condominium; and further, when too high a percentage of a 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 Davis Townhomes; 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 Davis Townhomes and permitting Davis Townhomes to achieve the objectives described above.

NOW THEREFORE, the unit owners of Davis Townhomes hereby amend the Governing Documents recorded against the real property located in Davis County, Utah, known as Davis Townhomes and more fully described on Exhibit "A" attached hereto. If there is any conflict between this Amended Declaration and the Governing Documents, this Amended Declaration shall control.

This Amended Declaration shall become effective upon recording. The Davis Townhomes Governing Documents are hereby amended as follows:

AMENDMENT

ARTICLE I RENTAL RESTRICTIONS

- 1.1 Not more than forty-five percent (45%) of the Units within Davis Townhomes may be leased at the same time. All leasing must be consistent with the provisions of this Amended Declaration.
- 1.2 Not more than forty-five percent (45%) of the Units at Davis Townhomes may be Occupied by Non Unit Owners at any one time. If less than forty-five percent (45%) of the Units at Davis Townhomes 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 Davis Townhomes Board who shall determine if less than forty-five percent (45%) of the units are currently being 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 forty-five percent (45%) of the Units at Davis Townhomes 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 Davis County Recorders Office may continue to be Occupied by Non Unit Owners until (a) the Unit Owner transfers ownership of the Unit, (b) the 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. For purposes of the forty-five percent (45%) cap on rentals contained in Subparagraphs 1.1 and 1.2 above, those Units Occupied by a Non Unit Owner at the time this Amended Declaration is recorded shall be included in the forty-five percent (45%) that may be rented.

- 1.7 For purposes of Subparagraph 1.6, a transfer occurs when the owner conveys, sells, or transfers a Unit by deed to another person or if the owner grants a life estate in the Unit.
- 1.8 The Board shall create, by rule or resolution, procedures to determine and track the number of rentals and Units in Davis Townhomes 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 paragraph 1.5 shall not be counted toward the forty-five percent (45%) cap on rental restrictions.
- 1.10 Unit Owners may not Rent or Lease their Unit for a period of less than 180 days or allow weekly or overnight rentals. When a Unit qualifies for to be Rented, the maximum rental period in the Lease shall be one year, however, the Lease may be renewed at the end of one year. All Leases must be only to a Single Family. Renting or Leasing less than 100% of the Unit is prohibited.
- 1.11 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.
- 1.12 As used herein, "Non Owner" or "Non Unit Owner" means an individual or entity that does not hold any interest in the title to the Unit as shown on the records of the Davis County Recorder.
- 1.13 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.
- 1.14 "Single Family" means any number of individuals, related by blood, marriage, or adoption, and domestic servants for such family, or a group of not more than three persons who are not so related, living together as a single nonprofit housekeeping Unit.
- 1.15 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 Davis Townhomes 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.

- 1.16 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.
- 1.17 Nothing herein shall prohibit an Owner from permitting a guest or visitor from *residing in his* or her Unit, while the Owner is present.
- 1.18 The Amended Declaration and the provisions set forth in the Article XI, Section 1 of the Enabling Declaration and Article XI, Section 1 of the Restated Declaration are hereby rescinded and replaced by the provisions in Article 1 of this Amended Declaration.

**ARTICLE 2
SINGLE FAMILY RESIDENCE, BUSINESS AND COMMERCIAL ACTIVITY**

- 2.1 Each Dwelling Unit shall be used as residence for a single family. No part of the Property shall ever be used or caused to be used or allowed or authorized any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purpose without the vote of fifty percent (50%) of the votes eligible to be cast by Members of the Association.

**ARTICLE 3
SEVERABILITY**

- 3.1 If any of the provisions of this Amended Declaration, 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 Amended Declaration and the application of any such provision, paragraph, sentence, phrase or word in any other circumstances shall not be affected thereby.

[Signatures on Following Page]

EXHIBIT "A"

Legal Description of Units at Davis Townhomes Condominiums

All Units and common area in the Davis Townhomes Condominiums, Davis County, Utah.

(05-120-0101 through 0109)

Beginning at a point which is North $66^{\circ}29'12''$ West 2039.68 feet and North $89^{\circ}03'51''$ West 305.39 feet from the East Quarter Comer of Section 31, Township 2 North, Range 1 East, Salt Lake Base and Meridian, and running thence North $86^{\circ}10'00''$ West 221.94 feet; thence North $15^{\circ}01'15''$ East 42.17 feet; thence North $37^{\circ}1'00''$ East 144.26 feet; thence South $86^{\circ}29'56''$ East 131.09 feet; thence South $02^{\circ}38'51''$ West 162.67 feet to the point of beginning.