



2017-007590

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Myka Bono Sample
Saline County Circuit Clerk

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**AMENDMENT TO DECLARATION OF GOVERNANCE, COVENANTS, EASEMENTS,
CONDITIONS AND RESTRICTIONS FOR MIDTOWN BRYANT SUBDIVISION**

WHEREAS on October 2, 2008 TND Developers LLC as Founder filed for record that Declaration of Governance, Covenants, Easements, Conditions and Restrictions for Midtown Bryant Subdivision in the records of the Saline County Circuit Clerk as instrument no. 08-05630 (the "Declaration"), and governing those lands described therein (the "Midtown Bryant Subdivision"); and

WHEREAS the "Turnover Date" as defined in the Midtown Declaration has passed, and The Midtown Bryant Council, Inc. has been assigned the rights and duties of the Property Owners Association and of administration of the rights and responsibilities of ownership and occupancy of Midtown Bryant Subdivision pursuant to the provisions of the Declaration; and

WHEREAS it has become beneficial to (a) allow for the use of certain Common Elements, to-wit, the swimming pool within the Subdivision, by nonresidents, and (b) define the rights of residents and non-residents of the Midtown Bryant Subdivision with respect thereto;

NOW THEREFORE, pursuant to Resolution duly passed by at least two-thirds of the Directors of Midtown Bryant Council Inc., in-turn pursuant to Article XI, paragraph 4 of the Midtown Declaration, the Declaration is hereby amended to read as follows:

1. Article III, paragraph 1.d is hereby amended to read as follows:

d. Owners' Easements and Rights of Enjoyment in the Commons: Subject to the terms and provisions of this Declaration, and subject to the below, each Owner and those persons occupying each separate Unit for which separate per-Unit Assessments have been paid shall have a nonexclusive, perpetual right and easement of ingress, use, and enjoyment over, across, upon, in and to the Commons, which easement shall include, without limitation, the right of access to and from, and use of the Commons and the right to use access, utility, water, sewer, drainage and ponding easements therein. Such right and easement shall be appurtenant to and shall pass with the title to each Parcel that is part of the Community, shall not be severable therefrom, and shall be subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Commons by guests and invitees of Owners and Occupants, Occupants of attached Residential Structures and other attached Units not paying per-Unit assessments, Live-Work Units, and in the Board's absolute discretion, by non-residents of the Community;

(ii) the right of the Association to suspend any Owner's voting rights and right of such Owner, his family, guests, and invitees to use the recreational facilities for any period during which any Assessment against such Owner's Lot remains unpaid; and the right to suspend the same for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations;

(iii) the right of the Association or the Founder to dedicate all or any part of the Commons to any public agency, authority, or utility for such purposes and subject to such conditions of the Association's rules and regulations;

(iv) the right of each other Owner and Occupant to the use of the Commons, as provided and limited in this Article;



(v) the restriction that no Owner or Occupant shall operate, drive, ride, store or otherwise place any motorized vehicles on, in or about any part of the Commons other than the Commons Ways, including but not limited to cars, go-cars, trailers, recreational vehicles, recreational motor vehicles, trucks, vans, all-terrain vehicles, motorcycles, motorized bicycles, motor-tricycles, dirt bikes, minibikes, tractors, campers and house trailers.

(vi) the restriction that no Owner or Occupant shall operate, drive, ride, store or otherwise place any motorized watercraft, including, without limitation, boats, vessels, motorboats, and jetskis on, in or about any part of the Commons and that any swimming or other water activity shall be strictly at the risk of such Owner, member, guest or invitee as no such activity shall be supervised by any lifeguard or other safety personnel;

(vii) the easements, uses, limitations, conditions, reservations, and restrictions hereinafter provided in this Declaration;

(viii) the Rules and Regulations as established from time to time by the Association;

(ix) the right of the founder and any Builder to use the Commons for sign placement purposes during periods of construction and development;

(x) the right of the Founder and the Directors, on behalf of the Association, to negotiate with any public agency for the conveyance of all or any part of the Commons, for any public purposes, and to execute such instruments as may be necessary for such purpose, subject to the proceeds of any such conveyance being held by the Association in trust for the Owners; and

(xi) the Founder's and any affiliate of the Founder's right to use the Commons as set in this Declaration and the rights reserved to the Founder as provided elsewhere in this Declaration.

Notwithstanding anything to the contrary contained herein, for the purpose of this paragraph each Owner of a Lot in the Community paying the payment of assessments pursuant to Article VII, and one Occupant thereof (consisting of one immediate family plus a maximum of two guests, tenants agents, servants, employees and/or invitees) shall be entitled to one family membership to the pool. The Board may establish separate and distinct fees for use of the Community pool and other aspects of the Commons as the Board may designate in the future pursuant to this paragraph and pursuant to Article VII paragraph 5.d for (i) (only to the extent the Board may elect to allow non-residents to use such facilities) non-residents of the Community, (ii) residents and other Occupants of Live-Work Units, (iii) Occupants of Senior Housing; (iv) Occupants of attached housing such as apartments, condominiums or other structures subject to the Horizontal Property Regime Act, and (iv) their respective guests.

Each Owner and Occupant shall use and exercise their easement rights over the Commons in a reasonable manner so as not to endanger or harm others, create a nuisance for others, or cause any obstruction or impediment to the use of the easements created by this Declaration by others authorized to use them. Any Owner may delegate, subject to the provisions of this Declaration and the Rules and Regulations, such Owner's right to enjoyment of the Commons to any Occupant who either resides on the Parcel or are accompanied by such Owner while using any of the Commons. Subject to the rights granted by the Founder to third parties to use the Commons as allowed under this Declaration, the Board may adopt additional rules and regulations from time to time which limit, restrict, or prohibit the use of any recreational facilities constituting part of the Commons by any person who is not an Owner or which impose fees or charges on the use of any of the Commons by any persons who are not owners.

2. Article VII, paragraph 5 is hereby amended to read as follows:

5. Individual Parcel Assessments. The Board of Directors may, in its sole discretion, at any time and from time to time, levy and assess as individual assessments (collectively "Individual Parcel Assessments") against any Parcel:

a. Fines against an Owner and such Owner's Parcel in accordance with the terms and provisions of Article VII hereof or adopted by the Architectural Review Board or the General Board pursuant to any of the terms and provisions of this Declaration.

b. Any costs or expenses, including, without limitation, collection costs, attorneys' fees, court costs, and any administrative costs and expenses incurred by or on behalf of the Architectural Review Board or Board of Directors as a result of the failure of any Owner or any Occupant to observe and perform their respective duties and obligations under this Declaration, the Design Code or the Rules and Regulations;

c. Any special services provided by the Board of Directors to a Parcel at the request of the Owner thereof; and

d. Fees, charges, and other costs incidental to the use of any of the Commons for which a charge for the use thereof has been established by the Board. The Individual Parcel Assessments provided for in this Section 5 shall be levied by the Board of Directors and the amount and due date of such Individual Parcel Assessment shall be specified in a note to such Owner.

e. Beginning January 1, 2009, all residential Units shall be subject to a General Assessment of \$800.00 per year, except that the Board may set an amount lower than that amount, proportionate to other similarly situated Units, for (i) residents and other Occupants of Live-Work Units where the Assessments set out in para. 5.f have been paid, (ii) Occupants of Senior Housing where the Assessments set out in para. 5.f have been paid; (iii) Occupants of attached housing such as apartments, condominiums or other structures subject to the Horizontal Property Regime Act where more than one Unit exists on any Parcel.

f. Each commercial lot, and each Unit used in Commercial Buildings, and Live-Work Units, and Senior Housing, shall be furthermore subject to an assessment of \$1.00 per square foot of ground floor building. The Founder, Affiliates or Assigns shall not be required to pay any assessment provided for in this section.

Patricia Plumridge

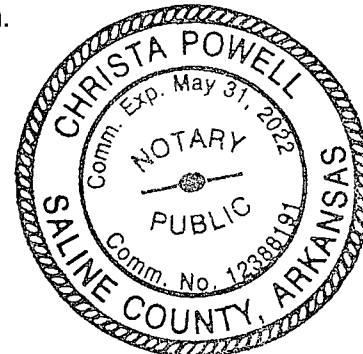
Patricia Plumridge, President
The Midtown Bryant Council, Inc.

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)ss.:
SALINE COUNTY)

On this 31st day of December, 2016 before me personally appeared Patricia Plumridge, to me personally known, and who being duly sworn, did state that she was the President of the Midtown Bryant Council, Inc., and duly authorized thereby, and who did execute the foregoing in my presence for the consideration, uses and purposes set forth therein.

Christa Powell
Notary Public
My Commn. Expires: May 31, 2022



The Board of Directors for Midtown Bryant Council, Inc. met on January 3, 2017, and approved the Amendment to Declaration of Governance, Covenants, Easements, Conditions and Restrictions for Midtown Bryant Subdivision dated December 31, 2016.

A handwritten signature in cursive script, reading "Patricia Plumridge", written over a horizontal line.

Patricia Plumridge, President
Midtown Bryant Council