



BOARD OF COUNTY  
COMMISSIONERS



TOWN  
COUNCIL

# JOINT INFORMATION MEETING AGENDA DOCUMENTATION

**SUBMITTING DEPARTMENT:** Affordable Housing

**PRESENTER:** Stacy Stoker

**MEETING DATE:** February 6, 2023

**SUBJECT:** Standard Deed Restriction Template Update

## STATEMENT/PURPOSE

The Town Council (“Council”) and Board of County Commissioners (“Board”) will consider changes to the Standard Deed Restriction Template for Affordable, Workforce, and Housing Preservation Units.

## BACKGROUND/ALTERNATIVES

The Jackson/Teton County Workforce Housing Action Plan adopted November 2015 requires that Standard Restrictions be adopted for use on all new and existing restricted housing units. Standard Restriction Templates were adopted on December 3, 2018, and updated July 22, 2019, and December 7, 2020, to ensure consistency with the Housing Department Rules and Regulations.

Housing Department Staff and Town and County Legal Staff have reviewed the restrictions and have made some recommended changes to the restriction templates.

The recommended changes are as follows:

### **Global Changes to all Restriction Templates:**

- The Template is reformatted and designed to allow whoever is drafting it to add or remove text boxes based on what type of property will be restricted (Affordable, Workforce, or Housing Preservation).
- The Title of the restriction was changed to Deed Restriction for Property Located at “Address of Property”.
- Owner (capitalized referring to the original owner or developer) was changed to Declarant for clarity.
- The following rule specifics were removed from the restriction and the wording now states they are to be in compliance with the Housing Department Rules and Regulations.
  - Definition of Local Business
  - Ownership of Residential Real Estate
  - Asset Limitations
  - Occupancy Rule (A minimum of 10 months per year for ownership and 80% of lease for rental).
  - Reporting Requirements
  - Insurance Requirements
  - Capital Improvements
  - Guests
  - Business Activity
- Default was changed to Breach which is defined, and the following breach remedies were added or clarified:
  - Administrative Process
  - Court Enforcement
  - Purchase Option
  - Forced Sale

## COMPREHENSIVE PLAN ALIGNMENT

Common Value 3, Section 5 is to ensure a variety of workforce housing opportunities so that at least 65% of those employed locally also live locally. The Special Restrictions govern the workforce housing and provide the ability to enforce them to ensure that the units are being used as the community intends.

Workforce Housing Action Plan – The Special Restriction update aligns with Initiative 3.b of the Workforce Housing Action Plan *Housing Management Plan*, which requires the Housing Manager to consistently review new restrictions to ensure efficient management of workforce housing.

#### STAKEHOLDER ANALYSIS

Stakeholders include applicants, owners and tenants of restricted homes, the public, elected officials, and staff.

#### FISCAL IMPACT

No fiscal impact.

#### STAFF IMPACT

Housing Department staff have spent approximately 8 hours working on changes to the templates and writing the staff report. Town and County legal spent time creating and editing the templates and reviewing the staff report.

#### LEGAL REVIEW

K. Gingery and L. Colasuonno

#### ATTACHMENTS

- Standard Deed Restriction Template for Affordable, Workforce, and Housing Preservation Units

#### RECOMMENDATION

Staff recommends approval of the changes as presented.

#### SUGGESTED MOTION

I move to approve the changes to the Standard Deed Restriction Template for Affordable, Workforce, and Housing Preservation Units as set forth in this staff report and consistent with any modifications to those changes discussed today.

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**Deed Restriction for Property**  
Located at [Click here to enter Name of Dev. and/or address.](#)

This Deed Restriction (“Restriction”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the undersigned owner of the property (“Declarant”) and Choose an item., Wyoming.

**RECITALS:**

**WHEREAS**, Declarant holds fee ownership interest in that certain real property, located in Choose an item., Wyoming, and more specifically described as follows:

[Click here to enter Legal Description](#)  
PIDN: \_\_\_\_\_ (“Land”)

*CHOOSE ONE OF THE BELOW AND DELETE THE OTHER (AND THIS INTRODUCTION) DEPENDING ON WHICH PROGRAM THE UNITS FALL WITHIN. Also note, if the developer was required to build a complex – i.e., apartments – then the whole thing is described and it will also simply be called Residential Unit (avoiding over tailoring) and nothing changes in these boxes.*

*Insert this in the Affordable Restriction.*

**WHEREAS**, Declarant developed the Land for a \_\_\_\_\_square foot insert appropriate description - retail/service/office/residential/etc. building, which generated the obligation to provide housing, and said obligation being set as a condition of approval for Permit No. Insert number, **and to place an Affordable Program restriction on said housing in accordance with the Jackson/Teton County Housing Department Rules and Regulations (Rules and Regulations”)**. Declarant is restricting:

- Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_.
  - Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_.
  - Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_.
- (together or individually “Residential Unit”).

The Income Ranges are defined in the Rules and Regulations.

*Insert this in the Workforce Restriction.*

**WHEREAS**, Declarant developed the Land for a \_\_\_\_\_square foot insert appropriate description - retail/service/office/residential/etc. building, which generated the obligation to provide housing and said obligation being set as a condition of approval for Permit No. Insert number, **and to place a Workforce Program restriction on said housing in accordance with the Jackson/Teton County Housing Department Rules and Regulations (Rules and Regulations”)**. Declarant is restricting:

- Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms.
  - Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms.
  - Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms.
- (together or individually “Residential Unit”).

Insert this in the Housing Preservation Program Restriction.

**WHEREAS**, Declarant voluntarily participated in the Housing Preservation Program (or a like successor), pursuant to which in exchange for restricting the Land and the insert appropriate description of the unit being restricted (“Residential Unit”) with a Workforce Program restriction in accordance with the Jackson/Teton County Housing Department Rules and Regulations (Rules and Regulations”). Declarant received Housing Preservation Funds, all as more specifically set forth in the Rules and Regulations; and

Insert this when incentive tool is used:

**WHEREAS**, Declarant participated in the Choose an item. (or a like successor) pursuant to which in exchange for restricting the Land and the Residential Unit defined herein with a Choose an item. In accordance with the Jackson/Teton County Housing Department Rules and Regulations (“Rules and Regulations”), Declarant received Choose an item., all as more specifically set forth in the Rules and Regulations. Being a condition of approval for Choose an item., in which Declarant received \_\_\_\_\_ Choose an item. , Declarant is restricting:

- Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_ (delete income range if Workforce).
- Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_ (delete income range if Workforce)..
- Unit \_\_\_\_\_, with \_\_\_\_\_ number of bedrooms with Income Range\_\_\_\_\_ (delete income range if Workforce)..

(together or individually “Residential Unit”).

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners resolved to form the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to Wyo. Stat. §15-10-116, as amended, and its successors or assigns, known as the Jackson/Teton County Housing Authority (“JTCHA”);

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department (“Housing Department”) who are employees of Teton County and agents acting on behalf of the JTCHA, empowered to enforce this Restriction;

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners have duly enacted the Jackson/Teton County Housing Department Rules and Regulations (“Rules and Regulations”) and this Restriction is subject to such Rules and Regulations as they are amended from time to time;

**WHEREAS**, in furtherance of the goals, objectives, requirements, and conditions of Permit No. insert number, and consistent with the Choose an item. Click or tap here to enter text.’s goal of providing decent, safe, and sanitary housing to qualified employees working in Teton County, Wyoming, that is affordable, Declarant agrees to restrict the use and occupancy of the Residential Unit as set forth herein;

**WHEREAS**, Declarant desires to record this Restriction and declare that the Residential Unit shall be held, sold, and conveyed in perpetuity subject to this Restriction and the Rules and Regulations, as they may be amended from time to time, which Restriction shall be in addition to all other covenants, conditions, or

restrictions of record affecting the Residential Unit, and shall be enforceable by JTCHA and Choose an item. Click or tap here to enter text., Wyoming. Furthermore, Declarant hereby declares that where the term "Declarant" is used in this Restriction it includes and means each and every subsequent owner, unless otherwise specifically clarified.

**NOW, THEREFORE**, in satisfaction of the conditions in and consideration of Permit No. insert number, Declarant hereby declares, covenants, and agrees for itself and each and every person acquiring ownership of the Land and/or Residential Unit, that they shall be held, used, occupied, developed, transferred, and conveyed subject to this Restriction in perpetuity.

## ARTICLE I OWNERSHIP

*CHOOSE ONE OF THE BELOW AND DELETE THE OTHER (AND THIS INTRODUCTION) DEPENDING ON WHETHER WORKFORCE OR AN AFFORDABLE PROJECT.*

*Insert this in the Affordable Restriction*

- 1.1 Qualified Household. The ownership of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household, as set forth herein and as further defined in the Rules and Regulations ("Qualified Household").
- 1.1.2 Employment. At time of purchase and in perpetuity during ownership, at least one member of the Qualified Household must work a minimum of 1,560 hours per year for a Local Business, as that term is defined in the Rules and Regulations.
- 1.1.3 Income Limit. At time of purchase, the Qualified Household's gross income must be between insert appropriate income range of the median family income in Teton County, Wyoming, as established in the applicable year's United States Department of Housing and Urban Development's median family income chart for Teton County, Wyoming.
- 1.1.4 Residential Real Estate. At time of purchase and in perpetuity during ownership, no member of the Qualified Household may own (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) real estate except as set forth in the Rules and Regulations.
- 1.1.5 Asset Limit. At the time of purchase of the Residential Unit, the maximum allowed value of assets shall be as set forth Rules and Regulations.

*Insert this in the Workforce Restriction*

- 1.1 Qualified Household. The ownership of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household, as set forth herein and as further defined in the Rules and Regulations ("Qualified Household").
- 1.1.6 Employment. At time of purchase and in perpetuity during ownership, at least one member of the Qualified Household must work a minimum of 1,560 hours per year for a Local Business, as that term is defined in the Rules and Regulations.
- 1.1.7 Income Limit. At time of purchase and in perpetuity during ownership, the Qualified Household must earn, at minimum, 75% of its income from a Local Business, as that term is defined in the Rules and Regulations. .
- 1.1.8 Residential Real Estate. At time of purchase and in perpetuity during ownership, no member of the Qualified Household may own (whether individually, in trust, or through an entity

including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) real estate except as set forth in the Rules and Regulations.

1.2 Qualification Determination by the Housing Department. The Housing Department shall determine, in its sole discretion, whether a prospective buyer is a Qualified Household. The Department shall use written applications, representations, and information to make the determination, which shall include the verification of those materials as necessary and appropriate to establish and substantiate eligibility.

**Insert this in the Workforce and Affordable Restriction**

1.3 Exception for Declarant. Notwithstanding the foregoing, it is understood and acknowledged that at the time of recordation of this Restriction the Declarant may still hold title to the Residential Unit. If Declarant still holds title to the Residential Unit at the time of recordation, Declarant is not required to be a Qualified Household. However, Declarant understands and agrees that it is required to sell the Residential Unit to a Qualified Household in accordance with the terms of this Restriction and the Rules and Regulations and no later than receipt of a certificate of occupancy for the Residential Unit.

**Insert this in the Preservation Program Restriction**

1.3 Exception for Declarant. Notwithstanding the foregoing, it is understood and acknowledged that at the time of recordation of this Restriction the Declarant may still hold title to the Residential Unit. If Declarant still holds title to the Residential Unit at the time of recordation, Declarant is not required to be a Qualified Household; provided, such exception applies only until, the earlier of, Declarant's death, transfer, or sale of the Residential Unit. Declarant understands and agrees that Declarant i) may only sell and transfer the Residential Unit to a Qualified Household in accordance with the terms of this Restriction and the Rules and Regulations and ii) should any portion of the Residential Unit be rented it may only be rented to a Qualified Household.

**If this is for the DOWNPAYMENT ASSISTANCE Preservation Program Restriction**

There is no 1.3 and 1.4 below gets renumbered 1.3.

1.4 Ownership by Housing Department. Notwithstanding the foregoing, JTCHA may purchase and own the Residential Unit.

**ARTICLE II  
OCCUPANCY, IMPROVEMENT, AND USE**

2.1 Rules and Regulations Applicability. All applicable limitations on occupancy, improvement, and use set forth in the Rules and Regulations, apply to the Residential Unit.

2.2 Business Activity. No business activities shall be carried out in a Residential Unit, except to the extent allowed in the Rules and Regulations.

2.3 Guests. No persons other than those comprising the Qualified Household, as set forth in the Rules and Regulations, may occupy the Residential Unit.

2.4 Maintenance. Declarant shall be responsible for the cost and expense to keep and maintain the interior of the Residential Unit, and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association in a safe, decent, and sanitary condition pursuant to the Rules and

Regulations. In the event Declarant fails to maintain the Residential Unit in a safe, decent, and sanitary condition, the Housing Department may take action, and be reimbursed for costs thereof, all as set forth in the Rules and Regulations.

2.5 Capital Improvements. Declarant may only undertake capital improvements to the Residential Unit, and only get reimbursed for such, to the extent set forth in the Rules and Regulations.

2.6 Insurance. Declarant shall keep the Residential Unit continuously insured as set forth in the Rules and Regulations. Declarant shall, as often as necessary to prove compliance herewith at all times, furnish and deposit with the Housing Department certificates of such insurance policy to be maintained by Declarant with evidence of payment of the premiums thereon.

2.7 Compliance with Laws and CC&Rs. The Residential Unit shall be occupied in full compliance with this Restriction; the Rules and Regulations; all laws, statutes, codes, rules, regulations of state, local, and federal law; Covenants, Conditions & Restrictions; and all supplements and amendments thereto.

2.8 Inspection. Upon reasonable notice to Declarant, the Housing Department shall have the right to inspect the Residential Unit from time to time as set forth in the Rules and Regulations.

2.9 Records. Declarant shall maintain records of service, rental, repair, and maintenance for a period of 2 years after their issuance. The Housing Department shall have the right to review the written records required to be maintained by Declarant.

*CHOOSE ONE OF THE BELOW AND DELETE THE OTHER (AND THIS INTRODUCTION) DEPENDING ON WHETHER RENTAL OR NOT*

2.10 Renting. The Residential Unit, nor any part thereof, including without limitation, the garage, any portion of any structure, or any room within any structure, may not be rented. Neither shall the same be otherwise occupied by persons other than as permitted in this Article.

2.10 Renting. The Residential Unit may be rented to the extent allowed in the Rules and Regulations. In addition to that set forth in the Rules and Regulations, the Residential Unit may only be rented for a minimum period of 31 days.

2.11 Renting. The Residential Unit may be rented to the extent allowed in the Rules and Regulations. In addition to that set forth in the Rules and Regulations, the Residential Unit may be rented for a minimum period of 180 days.

*CHOOSE ONE OF THE BELOW AND DELETE THE OTHER (AND THIS INTRODUCTION) DEPENDING ON WHETHER RENTAL OR NOT*

2.11 Periodic Reporting. To confirm compliance with this Restriction, the Rules and Regulations, and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, improvement, or transfer of the Residential Unit, Declarant shall timely comply with information requests, application material submission, and all supplemental requests as set forth in the Rules and Regulations.

2.11 Periodic Reporting. In order to confirm compliance with this Restriction, the Rules and Regulations, and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, improvement, or transfer of the Residential Unit, Declarant shall timely comply with information requests, application material submission, and all supplemental requests as set forth in

the Rules and Regulations. If the Declarant rents the Unit, the Declarant is responsible for timely compliance with all reporting requirements.

*CHOOSE ONE OF THE BELOW AND DELETE THE OTHER (AND THIS INTRODUCTION) DEPENDING ON WHETHER CAN BE OWNER OCCUPIED OR NOT*

2.12 Occupancy. The Residential Unit must be occupied as the Qualified Household's sole and exclusive primary residence, and they must physically reside therein on a full-time basis pursuant to the Rules and Regulations.

2.12 No Owner Occupancy. Declarant shall not reside in or occupy the Residential Unit. For purposes of this paragraph, if Declarant is an entity (including without limitation, a partnership, limited partnership, Limited Liability Company, corporation, association, or other) or a trust, this prohibition on owner-occupancy extends to any partner, member, shareholder, other principal or owner of the entity, and any trustee or beneficiary of the trust.

### ARTICLE III SALE

*CHOOSE ONE OF THE BELOW DEPENDING ON THE PROGRAM THE UNIT FALLS UNDER*

Insert this for the following FOUR Restrictions:

- Affordable Rental Apt and Condo
- Workforce Rental Apt and Condo

3.1 Sale of The Residential Unit. The Residential Unit may be bought and sold, except that all reporting and record-keeping required herein shall be continuous and any new owner shall obtain the required records from the prior owner. Every conveyance of the Residential Unit shall be subject to this Restriction. Within 10 days prior to the closing of the sale or other transfer of the Residential Unit, seller shall notify the Housing Department of the pending sale or transfer and, prior to closing, provide the Housing Department with contact information (including without limitation, mailing address, phone number and email) for the purchaser.

Insert this in the Affordable Ownership Restriction.

3.1 Sale. The seller of a Residential Unit shall give written notice to the Housing Department of their intention to sell ("Notice to Sell"), and after receipt of such notice, the Housing Department shall determine the Maximum Resale Price, as provided in Article 3.2. Upon the Housing Department's determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the Rules and Regulations. Every conveyance of a Residential Unit shall be subject to this Restriction and the Rules and Regulations, as they may be amended from time to time. Notwithstanding the foregoing, upon receipt of a Notice to Sell, the Housing Department may purchase such Residential Unit.

3.2 Maximum Sale Price. A Residential Unit may not be sold for a purchase price in excess of the "Maximum Sale Price." The Maximum Sale Price is the Maximum Sale Price as calculated by the Housing Department in accordance with the Rules and Regulations, as they may be amended from time to time. The Maximum Sale Price for a prospective purchaser is the current owner's purchase price plus an increase in price of the Denver-Aurora-Lakewood CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or 3%,



whichever is lower per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Sale Price, the actual sales proceeds delivered to a seller may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole discretion. To ensure that the sales price of any Residential Unit is limited to the Maximum Sale Price, no purchaser of a Residential Unit shall assume any obligation of a seller, nor shall such purchaser pay or provide to a seller any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Sale Price, as made by the Housing Department, shall be final and binding on all parties. Nothing herein shall be construed to constitute a representation or guaranty that upon the sale of a residential unit, a seller shall obtain the entire maximum sale price.

**Insert this in the Workforce Ownership Restriction**

- 3.1 Initial Sale of Residential Unit. At the time of sale from Declarant to a new owner ("Initial Sale"), the Residential Unit may only be sold to a Qualified Household at a purchase price as Declarant and prospective buyer may determine and subject to this Restriction. After Declarant and a prospective buyer enter into an agreement for the purchase and sale of the Unit, and at least 30 days prior to purported closing of the purchase and sale, the prospective buyer shall provide such information as may be required by the Housing Department for it to determine if the prospective buyer is a Qualified Household. If the prospective buyer does not qualify as a Qualified Household, such buyer may not purchase the Unit. All subsequent sales shall be executed in accordance with Article 3.2.
- 3.2 Resale. The seller of a Residential Unit shall give written notice to the Housing Department of their intention to sell ("Notice to Sell"), and after receipt of such notice, the Housing Department shall determine the Maximum Resale Price, as provided in Article 3.2. Upon the Housing Department's determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the Rules and Regulations, as they may be amended from time to time. Every conveyance of a Residential Unit shall be subject to this Restriction and the Rules and Regulations, as they may be amended from time to time. Notwithstanding the foregoing, upon receipt of a Notice to Sell, the Housing Department may purchase such Residential Unit.
- 3.3 Maximum Sale Price. A Residential Unit may not be sold for a purchase price in excess of the "Maximum Sale Price." The Maximum Sale Price is the Maximum Sale Price as calculated by the Housing Department in accordance with the Rules and Regulations, as they may be amended from time to time. The Maximum Sale Price for a prospective purchaser is the current owner's purchase price plus an increase in price of the Denver-Aurora-Lakewood CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or 3%, whichever is lower per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Sale Price, the actual sales proceeds delivered to a seller may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole discretion. To ensure that the sales price of any Residential Unit is limited to the Maximum Sale

Price, no purchaser of a Residential Unit shall assume any obligation of a seller, nor shall such purchaser pay or provide to a seller any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Sale Price, as made by the Housing Department, shall be final and binding on all parties. Nothing herein shall be construed to constitute a representation or guaranty that upon the sale of a residential unit, a seller shall obtain the entire maximum sale price.

**ARTICLE IV  
TERMINATION, AMENDMENT, CORRECTION**

*CHOOSE ONE OF THE BELOW DEPENDING ON THE PROGRAM THE UNIT FALLS UNDER*

Insert this in the Affordable Ownership or a Workforce Ownership (i.e., it tracks with Qualified Mortgage and Transfer).

- 4.1 Termination by insert the Town of Jackson or Teton County, Wyoming. This Restriction may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that this Restriction is no longer consistent with the goal of providing affordable housing.
- 4.2 Termination Resulting from Foreclosure by a Qualified Mortgagee. This Restriction as applied to a Residential Unit may be terminated by a Qualified Mortgagee in the event of a lawful foreclosure of the Residential Unit by such Qualified Mortgagee, as follows:
- 4.2.1 The Qualified Mortgagee provided to the Housing Department copies of all notices of intent to foreclose and all other notices related to the foreclosure contemporaneously with its service of such notices upon Declarant.
- 4.2.2 JTCHA did not exercise its rights as provided in Article IV Qualified Mortgage.
- 4.2.3 Termination may occur only after expiration of all applicable redemption periods and subsequent recordation of a Sheriff's Deed (or other transfer document as approved by the JTCHA in its sole and absolute discretion) conveying title to a purchaser, who is not (i) Declarant, (ii) a member of the Qualified Household, (iii) a person affiliated with or related to a Declarant or any member of the Qualified Household, or (iv) JTCHA.
- 4.2.4 In the event of a foreclosure hereunder, the Qualified Mortgagee shall pay to the Housing Department all proceeds remaining, if any, after payment of the Qualified Mortgage loan amount, interest, penalties, and fees, which proceeds would have been payable to Declarant of the foreclosed Residential Unit.
- 4.2.5 Notwithstanding the notice requirements to the Housing Department in this Section, if a Qualified Mortgagee has failed to provide the Housing Department copies of all notices of intent to foreclose and all notices related to the foreclosure contemporaneously with its service on Declarant, such Qualified Mortgagee, prior to foreclosing on the Residential Unit, shall provide the Housing Department with notice of its intent to foreclose ("Mortgagee Notice"). The Mortgagee Notice shall include all information relevant to Declarant's default and the actions necessary to cure such default. JTCHA shall have 45 days from the date of the Mortgagee Notice to exercise its rights under Article IV, Qualified Mortgage. If JTCHA fails to exercise its rights within such 45-day period, the Qualified Mortgagee may foreclose on the Residential Unit as provided herein.
- 4.2.6 Nothing herein shall limit or restrict Declarant's right of statutory redemption, in which event this Restriction shall remain in full force and effect.
- 4.3 Amendment. This Restriction may be amended by a signed, written amendment executed by both insert the Town of Jackson or Teton County, Wyoming and Declarant and recorded in the Teton County Clerk's Office against title to the Residential Unit.

4.4 Correction. JTCHA may unilaterally correct this Restriction to address scrivener’s errors, erroneous legal descriptions, or typographical errors.

Insert this for the following FOUR Restrictions:

- Affordable Rental Apt and Condo
- Workforce Rental Apt and Condo

4.1 Termination by insert the Town of Jackson or Teton County, Wyoming. This Restriction may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that this Restriction is no longer consistent with the goal of providing affordable housing.

4.2 Amendment. This Restriction may be amended by a signed, written amendment executed by both insert the Town of Jackson or Teton County, Wyoming and Declarant and recorded in the Teton County Clerk’s Office against title to the Residential Unit.

4.3 Correction. JTCHA may unilaterally correct this Restriction to address scrivener’s errors, erroneous legal descriptions, or typographical errors.

*ONLY INCLUDE ARTICLE IV AND V **ONLY IF AN AFFORDABLE OWNERSHIP OR A WORKFORCE OWNERSHIP OTHERWISE 1) DELETE IT IN ITS ENTIRETY AND 2) DELETE THIS INTRODUCTION***

**ARTICLE V  
QUALIFIED MORTGAGE**

5.1 Qualified Mortgage. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:

5.1.1 Is the primary construction financing loan and mortgage for initial construction of the Residential Unit and related project, or any refinancing of such loan and mortgage, as long as such mortgage has a maximum loan to value ratio of 100%; and

5.1.2 Is a mortgage solely for the purchase or refinance of the loan for the purchase (specifically excluding loans taken out for any other purpose, unless otherwise approved by the Housing Department) as long as the principal amount of such mortgage at purchase does not exceed 96.5% of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages combined does not exceed 95% of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and

5.1.3 runs in favor of a "Qualified Mortgagee," defined as:

5.1.3.1 An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or

5.1.3.2 A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or

5.1.3.3 A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Declarant or any family member of Declarant; or

5.1.3.4 JTCHA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit; or

5.1.3.5 the provider of a loan as described in Article 4.1.

5.2 Any mortgage, lien, or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:

5.2.1 be deemed unsecured; and

5.2.2 only be a personal obligation of a Declarant and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

5.2.3 Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a Breach hereunder and JTCHA and/or the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right to exercise its Purchase Option and Forced Sale.

5.3 In the event an Declarant fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage (Qualified or otherwise), lien, or other encumbrance purporting to affect the Residential Unit, or fails to timely make any other payment required in connection with the Residential Unit (including without limitation homeowner's association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit), the Housing Department shall have (in addition to the any other remedies) the right to:

5.3.1 Cure such default and assume the payments and other obligations of Declarant. In such event, Declarant shall be in Breach of this Restriction, and the JTCHA may exercise any and all of its remedies hereunder or otherwise, including without limitation the right to exercise its Purchase Option and Forced Sale. In addition to such remedies, Declarant shall also be liable to the Housing Department for any amounts of money advanced.

5.3.2 Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the JTCHA shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the JTCHA shall determine.

5.3.3 Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to this Restriction.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH DECLARANT OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THIS RESTRICTION.

## ARTICLE VI TRANSFER

6.1 Transfer. The Residential Unit may only be sold in accordance with Articles 3.2 and 3.3, and only or transferred as follows:

6.1.1 Divorce. The provisions contained in this Article 3.1.1 apply only after the Initial Sale of the Residential Unit. In the event of the divorce of Declarant, the Housing Department may consent to the transfer of the Residential Unit to the spouse, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.

6.1.2 Death. The provisions contained in this Article 3.1.2 apply only after the Initial Sale of the Residential Unit. In the event of the death of Declarant, the Housing Department may consent to the transfer of the Residential Unit to an heir or devisee of the deceased,

which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.

6.1.3 Nonqualified Transferee. If title to the Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with the Sale Provisions of this Restriction and in compliance with the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:

6.1.3.1 The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.

6.1.3.2 If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, they shall cooperate with the Housing Department to effect the sale, conveyance, or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance, or transfer.

6.1.3.3 A Nonqualified Transferee shall comply with this Restriction, the Rules and Regulations, the Covenants, Conditions & Restrictions, zoning, and all laws governing the ownership, occupancy, use, development, improvement, and transfer of the Residential Unit.

6.1.3.4 A Nonqualified Transferee may only occupy the Residential Unit with the prior written consent of the Housing Department.

**ARTICLE XX (this will either be V or VII)**  
**GENERAL PROVISIONS**

**5.1 Breach**

5.1.1 Breach Defined. Each of the following shall be considered a breach hereof (“Breach”).

5.1.1.1 A violation of this Restriction, the Rules and Regulations, the Declaration of Covenants, Conditions & Restrictions, or any rule or law a violation of which could result in a lien recorded against a Residential Unit.

5.1.1.2 Failure to pay any financial obligation due or failure to perform a non-monetary obligation with respect to the Residential Unit which failure to pay or perform could result in a lien recorded against a Residential Unit. This includes, without limitation, homeowner dues, property taxes, contractor and servicer bills, and payment required by a promissory note secured by a mortgage recorded against a Residential Unit. Declarant shall notify the Housing Department in writing of any notification received from any party of past due payments or failure to perform within ten (10) calendar days of the date on the first notice of any such failure to pay or perform.

5.1.1.3 The Residential Unit is taken by execution or by other process of law, or Declarant is judicially declared insolvent, or Declarant assigns or attempts to assign the property for the benefit of creditors, a receiver, trustee, or other similar officer being appointed to take charge of any substantial part of the Residential Unit or Declarant’s property by a court of competent jurisdiction.

5.1.1.4 Fraud or material misrepresentation by Declarant or an occupant in the provision of information or documents included in an application, or additional submissions of requested documentation by the Housing Department, and related to the mission, goals, objectives, requirements, and conditions of JTCHA and its programs.

- 5.1.2 Administrative Process. Upon any alleged Breach, the parties must proceed in accordance with the default process set forth in the Rules and Regulations, as they may be amended from time to time.
- 5.1.3 Court Enforcement. After exhausting the administrative process required by Article 5.2 any order of the Housing Authority Board may be appealed via a court of competent jurisdiction.
- 5.1.4 Breach Remedies. In addition to any other remedies the JTCHA may have at law or equity, in the event of Breach, the JTCHA's remedies shall include, without limitation, the following:
- 5.1.4.1 Purchase Option. JTCHA shall have the option to purchase the Residential Unit for the lesser of the Maximum Resale Price or the appraised value, subject to the restrictions of this Article ("Option") and Article III.
- 5.1.4.1.1** If the Option is exercised and a loan described in Article 4.1.1.1 is outstanding, the purchase price for the Option shall be the outstanding principal, accrued interest, and reasonable costs of such loan, regardless of any other provision of this Restriction ("Purchase Price").
- 5.1.4.1.2** If Declarant has not completed the Initial Sale of all Residential Units and the Housing Department exercises the Option against those Residential Units which have not had an Initial Sale, the Purchase Price shall be prorated. In such event, the formula for establishing JTCHA's Purchase Price shall be Purchase Price multiplied by [# of units to which Option is exercised / (total built - # of Initial Sales)]. By way of example only, if 16 Residential Units are built and 4 have Initial Sales and the Housing Department exercises the Option on 6 units, the formula would be: Purchase Price x [6/(16-4)]...Purchase Price x .50.
- 5.1.4.1.3** In exercising its Option, JTCHA shall provide written notice of such to Declarant. Such notice shall include the Purchase Price and the timing for the closing of the purchase. The Option must be exercised within 90 days from receipt of a notification of a borrower Breach or the property foreclosure.
- 5.1.4.2 Forced Sale. JTCHA may require Declarant to sell the Residential Unit in accordance with the resale procedures set forth in Article III and the Rules and Regulations. Such sale shall be subject to this Restriction.
- 5.1.4.3 Whether JTCHA elects to exercise its Option or requires a Forced Sale, all proceeds, unless otherwise required by statute, will be applied in the following order:  
 FIRST, to the payment of any unpaid taxes;  
 SECOND, to the payment of any Qualified Mortgage;  
 THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);  
 FOURTH, to the payment of the closing costs and fees;  
 FIFTH, to the 2% facilitation fee to JTCHA;  
 SIXTH, to the payment of any penalties assessed against Declarant by JTCHA;  
 SEVENTH, to the repayment to JTCHA of any monies advanced by it in connection with a mortgage or other debt with respect to a Residential Unit, or any other payment made in Declarant's behalf;  
 EIGHTH, to any repairs needed for the Residential Unit; and  
 NINTH, any remaining proceeds shall be paid to Declarant.  
 If there are insufficient proceeds to satisfy the foregoing, Declarant shall remain personally liable for such deficiency.

- 5.1.4.4 Appointment of Housing Manager as Attorney-in-Fact. In the event JTCHA exercises its Option or requires a Forced Sale, Declarant hereby irrevocably appoints the Housing Manager as their attorney-in-fact to effect any such purchase or sale on their behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as JTCHA, or its designee, may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.
- 5.1.5 Limitation on Appreciation at Resale. JTCHA may fix the Maximum Resale Price of a breaching owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Breach (or as of such date after the Breach as JTCHA may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- 5.1.6 Remedies. JTCHA may, at its discretion, invoke any additional remedies available to it and seek any such relief, at law or equity, as may be appropriate, including but not limited to, specific performance of this Restriction and the Rules and Regulations; temporary, permanent, or preliminary injunctive relief (including prohibiting a proposed sale or transfer); a declaration that a sale or transfer is void; a forced sale; and monetary damages. Any equitable relief may be sought singly or in combination with such other remedies the JTCHA may be entitled to, either pursuant to this Restriction, the Rules and Regulations, the applicable Land Development Regulations, or under the local, state, or federal law.
- 5.1.7 Hold Harmless. In the event of a Breach, Declarant hereby holds insert the Town of Jackson or Teton County, Wyoming, JTCHA, and the Housing Department, their officials, employees, and agents harmless against any and all claims, suits, or actions of every name, kind, and description and any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of insert the Town of Jackson or Teton County, Wyoming, JTCHA, and the Housing Department, their officials, employees, and agents.
- 5.1.8 Reimbursement. In the event of a Breach, Declarant hereby agrees to reimburse the actual expenses, attorney's fees, and costs for any action the JTCHA and/or Housing Department expends to enforce this Restriction.
- 5.2 Jackson/Teton County Housing Department Housing Rules and Regulations. The term "Rules and Regulations" is defined as the Jackson/Teton County Housing Department Rules and Regulations, as the same may be amended from time to time and which are codified in the Municipal Code of the Town of Jackson, and enacted by resolution of Teton County, Wyoming pursuant to the Wyoming Administration Procedures Act. If there are no such written policies, procedures, or guidelines (or a written policy, procedure, or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in this Restriction shall be as set forth in the Rules and Regulations, as the same may be amended from time to time. In the case of a conflict between this Restriction and the Rules and Regulations, this Restriction shall apply.
- 5.3 No Legal Action. Neither the Declarant, nor any prospective purchaser, tenant, renter, occupant, or other party shall have the right to sue or bring other legal process against insert the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with the Town of Jackson, Teton County, Wyoming, or the Housing Department arising out of this Restriction. Neither the Town of Jackson, Teton County, Wyoming, nor the Housing Department shall have any liability to any person aggrieved by the decision of the Town of Jackson, Teton County, Wyoming, or the Housing Department regarding eligibility of a Qualified Household or any other matter relating to this Restriction.
- 5.4 Restriction as a Covenant. This Restriction shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or

interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department, and insert the Town of Jackson or Teton County, Wyoming.

- 5.5 Notices. All notices required to be served upon Declarant and insert the Town of Jackson or Teton County, Wyoming and shall be transmitted by one of the following methods: prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party. Notice shall be effective 1 day after being deposited with an overnight courier, or 5 business days after being placed in the mail.

To JTCHA / Housing Department:  
Jackson/Teton County Affordable Housing Department  
P.O. Box 714  
Jackson, WY 83001

With a Copy to:  
insert the Town of Jackson or Teton County, Wyoming.  
Attn: Clerk  
P.O. Box Insert 1687 for Town or 3594 for County.  
Jackson, WY 83001.

Declarant  
To the Address on file with the Teton County Clerk's Office

- 5.6 Attorney's Fees. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of this Restriction, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.
- 5.7 Incorporation of Recitals. All of the recitals hereof are incorporated by this reference and are made a part hereof as though set forth at length herein.
- 5.8 Choice of Law, Forum. This Restriction and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving this Restriction or its subject matter. Declarant by accepting a deed for the Residential Unit hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Restriction.
- 5.9 Severability. Each provision of this Restriction and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.
- 5.10 Section Headings. Paragraph or section headings within this Restriction are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.
- 5.11 Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Restriction shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Restriction. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.



- 5.12 Indemnification. Declarant shall indemnify, defend, and hold JTCHA, the Housing Department, and insert the Town of Jackson or Teton County, Wyoming, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Declarant's breach of any provision of this Restriction. Declarant waives any and all such claims against JTCHA, the Housing Department and insert the Town of Jackson or Teton County, Wyoming.
- 5.13 Successors and Assigns. This Restriction shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators, and assigns.
- 5.14 Governmental Immunity. Neither insert the Town of Jackson or Teton County, Wyoming nor the JTCHA or Housing Department waives governmental immunity by executing this Restriction and each specifically retain immunity and all defenses available to either of them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

**IN WITNESS WHEREOF**, Declarant has executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date").

**OWNER:**

Its:

STATE OF WYOMING            )  
  ) ss.  
COUNTY OF TETON            )

On the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, the foregoing Restriction was acknowledged before me by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal.

(Seal)

Notary Public

**Insert Town of Jackson or Teton County**

Insert Mayor or BCC Chair, Insert Mayor or Board Chair

**ATTEST:**

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Insert name of Town or County Clerk, Insert Town or County Clerk