

DAYBREAK COMMUNITY ASSOCIATION  
AFFIDAVIT OF OCCUPANCY RESOLUTION

**WHEREAS**, The Daybreak Community Association Board of Directors is empowered to conduct, manage, and control the affairs and activities of the Daybreak Community Association, Inc. (the "Association") pursuant to that certain Community Charter for Daybreak, as amended (the "Charter");

**WHEREAS**, Section 7.1(b) of the Charter provides that "in addition to, but consistent with this subsection, the Association or the Board may adopt Rules governing leasing and subleasing";

**WHEREAS**, Section 7.1(b) of the Charter, as amended by Amendment 3 and Amendment 4 thereto, provides that "No Unit purchased after **March 13, 2007** may be Leased until the Unit has been occupied by the owner for a continuous period of 12 months, and until satisfactory documentation of such continuous occupancy has been provided to and approved by the Board or the Association's managing agent."; and

**WHEREAS**, Section 7.3(f) of the Charter, as amended by Amendment 3 thereto, provides that the "Rules may provide for reasonable restrictions upon leasing rights as may be desirable to preserve, enhance and protect the Association."

**NOW THEREFORE, IT IS RESOLVED** that, the Board will amend the Affidavit of Occupancy by including an additional event that will be deemed to constitute an exception situation, which were previously referred to as "hardship" situations. The amended affidavit of Occupancy will add to Exhibit "A" of the Affidavit of Occupancy, which is more fully set forth in the attached exhibit, the following language as an additional paragraph 9:

An Owner, or Owners of the same Unit, who engage in charitable or humanitarian service with a non-profit charitable or humanitarian organization at a location that is at least sixty (60) miles from the Unit for the period of the Owner's, or Owners' engagement with the organization.

**IT IS FURTHER RESOLVED** that the language on the affidavit be revised that it is mandatory that the original form of the Affidavit of Occupancy be returned with a copy of the deed of transfer.

**IT IS FURTHER RESOLVED** that the additional paragraph 9 will be retroactive to previously signed Affidavits of Occupancy and will be applicable to situations that comply with this paragraph 9. However, nothing in this Resolution should be construed in such a way that would prevent the Board or the Association's managing agent from exercising discretion in determining whether or not the enumerated exception situations in the amended Exhibit "A" are applicable, or not, to a given Unit Owner's situation.

**IT IS FURTHER RESOLVED** that this Affidavit of Occupancy Resolution is effective upon adoption hereof, to remain in force and effect until revoked, modified, or amended.


[Signatures on the following page]

2018-06

**IN WITNESS WHEREOF**, the Board of Directors has caused this Resolution and Policy to be signed by its President and Secretary this 29<sup>th</sup> day of August, 2018, and direct its distribution to all Owners.

**DAYBREAK COMMUNITY ASSOCIATION, INC.**

By:   
Rich Sonntag, its President

By:   
Cameron Jackson, its Secretary

2018-06

**Affidavit of Occupancy Resolution Exhibit**

## **Affidavit of Occupancy**

Amendment no. 3 of the Community Charter for Daybreak states: No Unit purchased after March 13, 2007 may be leased until the Unit has been occupied by the Owner for a continuous period of 12 months; and until satisfactory documentation of such continuous occupancy has been provided to and approved by the Board or the Association’s managing agent.

Except for the exceptions as described in the attached Exhibit “A”, any sale, lease or other transfer by the Owner by which Owner either fails to occupy the property as Owner’s principal or secondary residence for the occupancy period or transfers title to the property prior to the occupancy period, shall constitute a material breach of the Affidavit of Occupancy. In the event of such breach, Owner shall pay to the Daybreak Community Association or its designee, liquidated damages in the stipulated amount of Twenty Five Thousand Dollars (\$25,000.00)

Owner’s signature below shall be notarized, and this Affidavit shall not constitute a lien, but shall provide actual and constructive notice of the terms of this Affidavit of Occupancy.

Agreed and acknowledged:

Owner(s)	Date	Daybreak Community Association	Date

Property Address and Lot number

On this \_\_\_ day of \_\_\_\_\_, in the year of 20\_\_ before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_ proved on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument and Acknowledged (he/she) executed the same. Witness my hand and official seal.

\_\_\_\_\_ executed the same. IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written

\_\_\_\_\_  
Notary Public

THE COMPLETED ORIGINAL FORM WITH SIGNATURE(S) MUST BE RETURNED TO CCMC ALONG WITH A COPY OF THE DEED: The Daybreak Community Association, Attn: Community Manager, 11274 S. Kestrel Rise Road, Suite F, South Jordan, UT 84009

## **EXHIBIT "A"**

The following events shall be deemed to constitute exceptions under which the Owner may transfer, sell, assign, convey, or lease (collectively a "Transfer") its rights, title and interest in the Property prior to occupancy and holding title to the Property for the Occupancy period.

1. A transfer resulting from the death of the Owner;
2. A transfer by Owner where the spouse of Owner becomes the only co-owner of the Property with the Owner;
3. A transfer resulting from a decree of dissolution of marriage or legal separation or from a property settlement agreement incident to such decree;
4. A transfer by Owner into a revocable inter vivos trust in which the Owner is a beneficiary;
5. A transfer because permanent (more than six months) employment related relocation of Owner or Owner's spouse (where Owner is not self-employed) necessary to accommodate a mandatory job transfer required by Owner's employer to at least 60 miles from the property location;
6. A transfer, conveyance, pledge, assignment or other hypothecation of the Property to secure the performance of an obligation, which transfer, conveyance, pledge, assignment or hypothecation will be released or reconveyed upon the completion of such performance;
7. A transfer necessitated by a medical financial emergency, proof of which emergency has been delivered to Owner;
8. An Owner, or Owners of the same Unit, who engage in charitable or humanitarian service with a non-profit charitable or humanitarian organization at a location that is at least sixty (60) miles from the Unit for the period of the Owner's, or Owners' engagement with the organization
9. A transfer which, in the reasonable judgment of the Association, should constitute an "exception" situation consistent with the intentions of this Affidavit and exhibit "A";