

TEXT OF AMENDMENTS

Effective _____

Article 5

5.12.

Section 5.12 as a **new Section** to the Covenants and Restrictions of Painted Hills Association, Inc. as follows:

Section 5.12: Restrictions upon Leasing of Residential Homes and Maximum Number of improved lots Owned

(A): Restrictions on leasing Residential Homes the Painted Hills Subdivision:

In order to insure the residents within the Painted Hills Subdivision and members of Painted Hills Association, Inc. (herein "PHA" or "Association") share the same proprietary interest in and respect of the Homes, lots and the Common Areas of the Painted Hills Subdivision, and in order to assist the Association in maintaining the residential property values within the Painted Hills Subdivision, **no** residential homes or structures within the Painted Hills Subdivision may be leased or rented to non-Lot Owner occupants at any time, except as may be otherwise provided in this Section 5.12, or except as otherwise approved by the Board of Directors.

(B): Effective Date of Leasing/Rental Restriction on Existing Rentals; Exceptions to Rental Restriction

(1) The provisions and requirements of Section 5.12(A) above shall be deferred as to any home of an Lot Owner who, as of the date of the recording of Section 5.12, is renting or leasing said home and provides written proof thereof to the Association within thirty (30) days after the date of said recording. Such proof shall include a copy of each executed written lease by such Lot Owner that identifies the tenant (but which may have the rental amount deleted). The Lot Owners of record of any currently-rented improved lot shall be exempt from the conditions of Section 5.12(A) until such time as the lot is transferred to a new owner or until the lot shall cease to be used as a rental for a period of at least six (6) consecutive months, but shall be subject to the remaining provisions of Section 5.12. However, when the legal Lot Owner(s) of record of any improved lot sells, transfers or conveys such improved lot(s) to another Lot Owner after the date of recording of this provision, or if the improved lot is not rented for a

period of at least six (6) consecutive months, such improved lot(s) shall immediately become subject to Section 5.12 in all respects. Additionally, if an owner of an improved lot is exempt from the lease restrictions set out herein, the exemption shall be revoked and the lot owner shall be subject to Section 5.12 in all respects if the owner or tenant fails to perform all the required responsibilities and obligations set out in these Covenants and Restrictions of Painted Hills Association, Inc., the Painted Hills Association By-Laws or the Rules and Regulations of the Painted Hills Association.

(2) If an Lot Owner of a currently-rented improved lot fails to deliver a copy of the written lease to the Painted Hills Office within thirty (30) days after the date of the recording of Section 5.12, the improved lot shall immediately be subject to Section 5.12.

5.12(C): Hardship Exceptions and Waiver.

(1) Notwithstanding Section 5.12(A) above, if an Lot Owner wishes to rent or lease his or her improved lot due to an unforeseen, undue hardship, the Lot Owner may request the Board of Directors to waive the rental restriction and approve a proposed lease if the Lot Owner establishes to the Board's satisfaction that the rental restriction will cause undue hardship upon the Lot Owner. If a majority of the Board of Directors approves in writing the Lot Owner's request, the Board of Directors may permit the Lot Owner to rent or lease said improved lot for a period not to exceed 365 days, subject to any further conditions or limitations imposed by the Board of Directors in the Board's discretion, but only if the Lot Owner satisfies all other requirements of Section 5.12. Such decision shall be at the sole discretion of the Board of Directors. If the Board of Directors grants approval to rent or lease an improved lot under this subsection, the President of the Board shall provide the Lot Owner with a letter granting the specific approval. Examples of an "undue hardship" include:

- (a) death, dissolution, guardianship or financial liquidation of an Lot Owner;
- (b) divorce or marriage of an Lot Owner;
- (c) necessary relocation of the residence of an Lot Owner to a point outside of a one hundred (100) mile radius of the perimeter of the Painted Hills Subdivision due to a change of employment or retirement of at least one (1) of such Lot Owners;
- (d) necessary relocation of the residence of an Lot Owner due to mental or physical infirmity or disability of at least one (1) of such Lot Owners;
- or
- (e) other similar circumstances.

(2) Prior to or contemporaneously with the application for a hardship exception and waiver as set out in 5.12(C), the lot owner shall present the Board of Directors a template of the lease to be used to allow the Board to insure the existence of the terms required under this section 5.12.

5.12(D): Approved Hardship Rental - General Lease Conditions and Terms; Requirements and Conditions

If the Board of Directors approves a hardship rental exception under Section 5.12(C), the Lot Owner shall comply with all of the following additional conditions:

(1) The lease agreement by an Lot Owner with a potential tenant shall be in writing; and, no lease shall be entered into by an Lot Owner or tenant for a lease term exceeding 365 days maximum without the prior written approval of the Board of Directors. The lease agreement shall provide that the Landlord is responsible for obtaining and maintaining adequate property and liability insurance coverage for the tenant and all occupants during the entire term of the lease, in an amount to be determined by the Board of Directors upon granting a hardship rental exception, and that the Landlord shall provide the Painted Hills Office of the Association with written proof of insurance prior to taking possession of the real estate at the beginning of the lease term. Failure to comply with these conditions renders the lease void or voidable.

(2) A copy of each executed lease by an Lot Owner which identifies the named tenant (but which may have the rental amount redacted) shall be provided to the Painted Hills Office by the Lot Owner within thirty (30) days after execution.

(3) No subleasing agreements, of any duration, by an Lot Owner or tenant shall be permitted.

(4) All leases shall be made expressly subject and subordinate in all respects to the terms of the Covenants and Restrictions of Painted Hills Association, Inc., By-Laws, Articles of Incorporation of the Association, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Lot Owner and a member of the Association. The tenant's rights during the term of the lease are subordinate to the rights of the Lot Owner and to the Association under the Covenants and Restrictions and By-Laws of the Association, and are not transferable.

(5) Any lease approved by the Board under Section 5.12(C) shall clearly state within the lease agreement that direct action may be taken by the Board of Directors against the tenant for violation of the Covenants and Restrictions of Painted Hills Association, Inc., By-Laws, or the rules and regulations promulgated by the Board of Directors, with or without joinder of the

Lot Owner of the improved lot. Failure to include this written statement in the lease renders the lease void or voidable.

(6) The Lot Owner shall provide a copy of the Covenants and Restrictions, the By-Laws of the Association, and the rules and regulations as promulgated by the Board of Directors, to the tenants prior to the effective date of the lease, and prior to the tenant taking possession of the real estate, and the Lot Owner shall provide the tenant with a copy of any updates or amendments to the Covenants and Restrictions, the By-Laws, rules and regulations that may take effect during the term of the lease.

(7) The Lot Owner shall not be delinquent in the payment of any assessments or other charges to the Association during the term of any lease. If an Lot Owner becomes more than sixty (60) days delinquent in any regular or special assessment of the Association, the Board of Directors shall have the right to terminate said Lot Owner's right to lease the Lot Owner's real estate, even if during the term of a lease.

(8) An Lot Owner who does not reside within the Painted Hills Subdivision during the lease term shall provide the Board of Directors or the Painted Hills Office with the Lot Owner(s) name and current direct contact information (address/phone/email) and current direct contact information of any tenant or resident living in the improved lot, so that the Painted Hills Office or the Board of Directors may directly and immediately contact the Lot Owner(s) and/or tenant in the event of a fire, casualty or other incident requiring immediate response by the Lot Owner or tenant.

(9) The Board of Directors shall have the power and authority to promulgate such additional rules and regulations as, in the Board's discretion, may be necessary or appropriate to effectuate the intent and purpose of Section 5.12.

5.12(E): Lot Owner is Still Liable.

No lease shall provide, or be interpreted or construed to provide, for a release of the Lot Owner from his or her responsibility to the Association and the other Lot Owners for compliance with the provisions of the Covenants and Restrictions, the Articles of Incorporation, these By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Lot Owner's liability to the Association for payments of assessments or any other charges.

5.12(F): Violations.

Any lease or attempted lease of an improved lot in violation of the provisions of Section 5.12 shall be voidable at the election of the Association's Board of Directors. In the event of a violation, the Board of Directors, on behalf of the

Association, shall have the right to exercise any and all available remedies at law or equity.

5.12(G): Maximum Number of Rental Homes Owned by a Single Lot Owner.

In order to encourage the Painted Hills Subdivision being and remaining a residential community where the Lot Owners reside on the property, and in order to maintain and enhance the character, condition and overall value of the real estate and the improvements located thereon, the following limitations on the number of rental homes owned by any Lot Owner shall apply:

- (1) No Lot Owner may own more than two (2) improved lots within the Painted Hills Subdivision at any time. This restriction shall not apply to any Lot Owner who owns more than two (2) rental homes which were purchased or with respect to which there was a binding purchase agreement prior to the adoption and recording of this Section 5.12.
- (2) If any Lot Owner is the Lot Owner of more than one (1) improved lot, such Lot Owner or the majority of the principals of such Lot Owner shall and must reside in at least one (1) of the improved lots, unless otherwise approved in writing by the Board of Directors upon a showing by such Lot Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 5.12(C), above.
- (3) "Lot Owner" shall have the meaning set out in Section 2.2 of these Covenants and Restrictions of Painted Hills Association, Inc. However, a Lot Owner is also considered anyone who has a fee simple interest or a partial fee simple interest in a lot. This shall include any joint owner of a lot or anyone who may have any ownership interest in an entity which owns a lot such as a partnership or a corporation.
- (4) Any purchase agreement, conveyance or lease or rental agreement executed subsequent to the recording of this restriction which violates any provision of Section 5.12 shall be voidable at the election of the Association's Board of Directors, except that neither party to such agreement conveyance or lease may assert this provision of Section 5.12(H) to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, shall have the right to exercise any and all available remedies at law or equity.

5.12(H): Institutional Mortgagees.

The provisions of Section 5.12 shall not apply to any institutional mortgagee of any improved lot which comes into possession of the improved lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding,

arrangement, or deed in lieu of foreclosure. However, when an improved lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of Section 5.12.

5.12(I): Acceptance and Ratification.

The acceptance of a deed of conveyance or the act of occupancy of any improved lot shall constitute a ratification of this Amendment, together with the Covenants and Restrictions, Articles of Incorporation, By-Laws, and all amendments thereto, and any rules or regulations adopted pursuant thereto, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in an improved lot as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.