

WHEN RECORDED, MAIL TO:

Aspen Condominium
c/o CCI Law
577 S 150 E
Smithfield, Utah 84335

THIRD AMENDMENT
TO THE
DECLARATION
FOR
ASPEN CONDOMINIUM

Units 1-7 as described in the Record of Survey Map—Aspen Condominium plat that was recorded in the recorder's office of Cache County, Utah, on February 9, 1973, as Entry No. 371362, and Units 325, 335, 345, 355, 365, 375, and 385 as described in the Record of Survey Map—Aspen Condominium UNIT 2 plat that was recorded in the recorder's office of Cache County, Utah, on June 3, 1974, as Entry No. 379193.

<u>Unit No.</u>	<u>Parcel No.</u>	<u>Unit No.</u>	<u>Parcel No.</u>
1	07-081-0001	325	07-092-0001
2	07-081-0002	335	07-092-0002
3	07-081-0003	345	07-092-0003
4	07-081-0004	355	07-092-0004
5	07-081-0005	365	07-092-0005
6	07-081-0006	375	07-092-0006
7	07-081-0007	385	07-092-0007

THIRD AMENDMENT
TO THE
DECLARATION
FOR
ASPEN CONDOMINIUM

EXCEPT IN VERY LIMITED CIRCUMSTANCES

**OCCUPANCY IS RESTRICTED TO
INDIVIDUALS 55 YEARS OF AGE AND
OLDER**

Carefully read this Declaration for an explanation of this IMPORTANT restriction.

EXCEPT IN VERY LIMITED CIRCUMSTANCES

RENTALS ARE PROHIBITED

Carefully read this Declaration for an explanation of this IMPORTANT prohibition.

RECITALS

1. WHEREAS, Aspen Condominium is a homeowners association (the "Association") located in Logan, Cache County, Utah, is organized as a Utah nonprofit corporation, and is thus subject to the Utah Revised Nonprofit Corporation Act (the "Nonprofit Act");¹ and
2. WHEREAS, the Association is subject to the Utah Condominium Ownership Act (the "Condo Act");² and
3. WHEREAS, the original Declaration for Aspen Condominium (the "Original Declaration") was recorded in the Cache County, Utah, recorder's office on February 9, 1973, as Entry No. 371361 beginning on Page No. 214 of Book No. 152; and
4. WHEREAS, a first amendment to the Original Declaration (the "First Amendment") was recorded in the Cache County, Utah, recorder's office on June 3, 1974, as Entry No. 379192 beginning on Page No. 786 of Book No. 166; and
5. WHEREAS, a second amendment to the Original Declaration (the "Second Amendment") was recorded in the Cache County, Utah, recorder's office on September 19, 2003, as Entry No. 840395 beginning on Page No. 344 of Book No. 1261; and
6. WHEREAS, the land within the jurisdiction of the Association and subject to the Original Declaration as amended is described in **EXHIBIT "A"**; and
7. WHEREAS, section 39 of the Condo Act provides for an amendment of an association's declaration to be adopted with the approval of 67% of the Owners;³ and
8. WHEREAS, in or about October of 2022, Owners representing thirteen of the fourteen Units (93%) in the Association voted to approve the prohibition against renting and leasing of Units; and
9. WHEREAS, an instrument reflecting the Owner-approved prohibition against renting and leasing of Units was improperly recorded against only parcel number 05-083-0028 in the Cache County, Utah, recorder's office on October 28, 2022, as Entry No. 1331135 beginning on Page No. 182 of Book No. 2366; and
10. NOW THEREFORE, the Association hereby adopts this Third Amendment to the Declaration of Aspen Condominium (the "Declaration") which shall be effective as of the date it is duly recorded in the Cache County, Utah, recorder's office.

¹ UCA 16-6a-101 *et seq.*

² UCA 57-8-1 *et seq.*

³ Note that section 33 of the Original Declaration requires at least 75% of the Owners to approve an amendment, except as otherwise provided, but this provision is overridden by UCA 57-8-39 so as to require no more than 67% for approval of an amendment.

11. RENTALS PROHIBITED. Notwithstanding anything to the contrary in this Declaration as amended, the renting or leasing of Units is strictly prohibited. No Unit may be used as a rental Unit or the like after the date this instrument is duly recorded, subject to the following exceptions provided by, and as described more fully in, the Condo Act:⁴

- (a) the Unit of an Owner in the military for the period of the Owner's deployment;
- (b) a Unit occupied by the Owner's parent, child, or sibling;
- (c) the Unit of an Owner whose employer has relocated the Owner for two years or less;
- (d) a Unit owned by an entity that is occupied by an individual who:
 - (1) has voting rights under the entity's organizing documents; and
 - (2) has a twenty-five percent (25%) or greater share of ownership, control, and right to profits and losses of the entity;
- (e) 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:
 - (1) the estate of a current resident of the Unit; or
 - (2) the parent, child, or sibling of a current resident of the Unit;
- (f) a Unit that was being rented immediately prior to the date that this instrument was duly recorded until:
 - (1) an Owner of the unit occupies the Unit; or
 - (2) 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, occupies the Unit; or
 - (3) the Unit is transferred to another Owner.

[SIGNATURE BLOCKS FOLLOWING THIS PAGE]

⁴ UCA 57-8-10.1

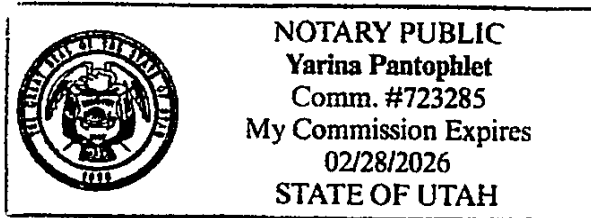
IN WITNESS WHEREOF, the undersigned certify that they are members of the Management Committee, that Owners representing at least 67% of the Units voted to approve the adoption of the prohibition against renting and leasing of Units, and that the Association has duly adopted this third amendment to the Original Declaration effective as of the date this instrument is duly recorded.

THE ASSOCIATION:

By: Wayne Merritt
Wayne Merritt, President, Member of Management Committee

STATE OF UTAH }
 SS
COUNTY OF CACHE }

On this 21st day of February, 2023, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, did state that he is a member of the Management Committee of the Association, did sign this instrument as such, and did acknowledge that the Association thereby executed the same.

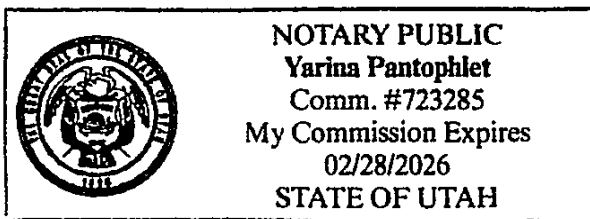


[Signature]
Notary Public

By: Karen Low
Karen Low, Secretary, Member of Management Committee

STATE OF UTAH }
 SS
COUNTY OF CACHE }

On this 21st day of February, 2023, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, did state that she is a member of the Management Committee of the Association, did sign this instrument as such, and did acknowledge that the Association thereby executed the same.



[Signature]
Notary Public

EXHIBIT "A"
Legal Description

PHASE 1/ UNIT (BUILDING) 1:

A PARCEL OF LAND SITUATED IN LOTS 2, 3, 4, 7, 8, AND 1 OF BLOCK 36, PLAT "A" OF THE LOGAN CITY SURVEY, IN THE NE¼ OF SECTION 33, TOWNSHIP 12 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT SE CORNER OF SAID LOT 2; THENCE NORTH 132.0' THENCE EAST 66.0'; THENCE NORTH 7.0'; THENCE EAST 66.0'; THENCE NORTH 96.125'; THENCE EAST 16.5'; THENCE NORTH 144.37' (RECORD) 148.5' (MEASUREMENT) TO A POINT 4 RODS SOUTH OF THE NORTH LINE OF LOT 7; THENCE WEST 163.5'; THENCE SOUTH 200.0'; THENCE WEST 33.0'; THENCE SOUTH 183.625' TO THE SOUTH LINE OF SAID LOT 2; THENCE EAST 48.0' ALONG SAID SOUTH LINE OF LOT 2 TO THE BEGINNING;

Including individual units 1-7, and the Common Area and Limited Common Area, as labeled on the Aspen Condominium Record of Survey Map, Unit 1, also known as parcel nos. 07-081-0001 – 0007.

PHASE 2/ UNIT (BUILDING) 2:

A PARCEL OF LAND SITUATED IN LOTS 2, 3, AND 4 OF BLOCK 36, PLAT "A" LOGAN CITY SURVEY IN THE NE¼ OF SECTION 33, TOWNSHIP 12 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING 48' WEST OF THE SE CORNER OF SAID LOT 2; THENCE NORTH 183.625'; THENCE EAST 33.00'; THENCE NORTH 200.00'; THENCE WEST 49.00'; THENCE 68.60' (MEASUREMENT); THENCE WEST 35.00'; THENCE SOUTH 49.50' (RECORD); 50.90' (MEASUREMENT); THENCE WEST 49.50'; THENCE SOUTH 59.90' (RECORD) 63.00' (MEASUREMENT); THENCE EAST 16.50'; THENCE SOUTH 39.40'; THENCE WEST 16.50'; THENCE SOUTH 148.50' (RECORD) 150.425' (MEASUREMENT); THENCE EAST 16.50'; THENCE SOUTH 16.50'; THENCE EAST 66.00'; THENCE SOUTH 132.00'; THENCE EAST 18.00' ALONG 300 NORTH STREET TO THE POINT OF BEGINNING;

Including individual units 325, 335, 345, 355, 365, 375, and 385, and the Common Area and Limited Common Area, as labeled on the Aspen Condominium Record of Survey Map, also known as parcel nos. 07-092-0001 – 0007.