

AMENDMENT

TO THE

CONDOMINIUM DECLARATION

OF

THREE FOUNTAINS NORTH OGDEN



# 1869753 BK2256 PG1525  
DOUG CROFTS, WEBER COUNTY RECORDER  
22-AUG-02 900 AM FEE \$77.00 DEP SGC  
REC FOR: HELGESEN

Vacating Units and Creating Common Area

WHEREAS, the Declaration of Condominium of Three Fountains North Ogden ("Declaration") recorded June 16, 1998, in the Weber County Recorder's Office in Book 1935, beginning at page 1785, and

WHEREAS, THREE FOUNTAINS CONDOMINIUM is contained within the real property located in Weber County, Utah, and more fully described as follows:

A part of Lot 49, Plat "B" North Ogden Survey in the Northeast Quarter of Section 32, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey; Beginning at a point on the West line of Washington Boulevard South 0°15' West 207.20 feet from the Northeast corner of said Lot 49; running thence South 0°15' West 201.58 feet along the West line of said Washington Boulevard; thence South 61°45' West 169.38 feet; thence North 28°15' West 95.00 feet; thence South 61°45' West 55.00 feet; thence North 28°15' West 20.00 feet; thence South 61°45' West 190.00 feet; thence North 28°15' West 130.00 feet; thence North 89°50' West 178.94 feet; thence North 0°15' East 392.11 feet to the South line of 2550 North Street; thence South 89°41' 30" East 451.30 feet along the South line of said 2550 North Street; thence South 0°15' West 42.90 feet; thence North 89°41' 30" West 3.00 feet; thence South 0°15' West 61.45 feet; thence South 89°41' 30" East 3.00 feet; thence South 0°15' West 102.85 feet; thence South 89°41' 30" East 208.70 feet to the point of beginning, containing 5.574 acres.

hereinafter referred to as the "real property."

WHEREAS, when Three Fountains Condominium was created in 1973 the declarant indicated he would build 72 condominium units and recorded documents to that effect. However, only 64 condominium units were built. The eight unbuilt units were to be built in building P3.

WHEREAS, Three Fountains Condominium Homeowners Association received a special warranty deed to the eight unbuilt units from Olympus Bank on July 25, 1989, which special warranty deed Three Fountains received for the purpose of maintaining the property where the eight units could have been built as common area for the benefit of the remaining 64 unit owners.

WHEREAS, it is and always has been the intent of Three Fountains to maintain the space where these units could have been built as common area and to never allow condominium units to be built where building P3 was originally intended.

WHEREAS, the Utah Supreme Court has ruled that a condominium unit that is declared by a developer but never built, is not a unit for the purpose of assessments.

18-059-0001 to 0025  
18-059-0033 to 0061  
18-059-0063 to 0072  
PT. 18-0816-0009

1525

18

NOW THEREFORE, Three Fountains Condominium Homeowners Association does hereby adopt the following Amendment to the Declaration of Three Fountains Condominium.

**SECTION I**

**Three Fountains' Vacation and Abandonment of all Units in Building P3**

Three Fountains hereby vacates the eight units that were originally created in the 1973 Declaration of Condominium of Three Fountains North Ogden, Phase I, recorded in the Weber County Recorder's Office on July 19, 1973, entry number 597546, in book 1030, beginning on page 249. Three Fountains hereby abandons any and all interest in these units and further declares that neither Three Fountains nor any other successor in interest to these units shall now or at any time in the future ever build or allow these units to be built. These eight units that are vacated are more specifically identified by the following legal description and land serial number:

Building	Unit Number	Land Serial Number
P	1	18-059-0025
P	2	18-059-0026
P	3	18-059-0027
P	4	18-059-0028
P	5	18-059-0029
P	6	18-059-0030
P	7	18-059-0031
P	8	18-059-0032

**SECTION II**

**Vacated Property to be Condominium Common Area**

The property whereon Building P3 was designated to be built is hereby declared to be common area of Three Fountains Condominium. This property has always been used as common area and considered to be common area of the homeowner's association. Each and every unit owner shall continue to have an interest in this and all common area at Three Fountains as stated in the Declaration and as provided by Utah law.

**SECTION III**

**Adjustment to Percentage Interest in Common Area**

The 1973 Declaration of Condominium of Three Fountains North Ogden, Phase I, provided, pursuant to paragraphs 4(a) and 7(c) and exhibit "A", and the 1998 amendment provided pursuant to paragraphs 4(a) and 7(c), that the undivided interest in the common area appurtenant to each unit was that percentage contained in the exhibit "A" attached to the declaration. With the vacating of the eight units herein, the percentage interest in the common area appurtenant to each

unit is adjusted as follows:

1. Those 16 units in building P1 and P2 will now each have a 1.3588% interest in the common area (formerly these units had a 1.2775% interest).
2. Those 48 units in buildings E1 through E8 will now each have a 1.6304% interest in the common area (formerly these units each had a 1.4450% interest).

**EFFECTIVE DATE**

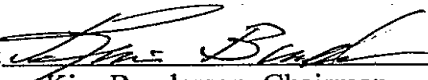
This amendment shall take effect when recorded.

**CERTIFICATION**

It is hereby certified that the unit owners representing 3/4 (75%) of the unit owners in attendance at a duly called and constituted meeting of the unit owners have approved and consented to the amendments stated herein.

IN WITNESS WHEREOF, executed this 5<sup>th</sup> day of August, 2002.

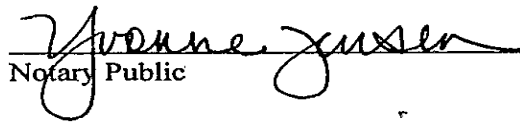
THREE FOUNTAINS CONDOMINIUM MANAGEMENT COMMITTEE

BY:   
 Kim Bunderson, Chairman

STATE OF UTAH                    )  
   : ss.  
 COUNTY OF WEBER                )

On the 5th day of August, 2002, personally appeared before me Kim Bunderson who being duly sworn, did say that he is the chairman of the Three Fountains Condominium Management Committee and that the within and foregoing instrument was signed on behalf of said management committee, and acknowledged to me that he is the signer of the above instrument and the information contained therein is true and correct to the best of his knowledge.



  
 Notary Public