

**ENTRY NO. 01227625**

11/15/2024 10:24:47 AM B: 2839 P: 1031

Declaration PAGE 1/7

RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 202.00 BY THE PRESERVE HOMEOWNERS ASSOCIATION



WHEN RECORDED, PLEASE RETURN TO:

The Preserve Homeowners Association  
c/o Park Pointe Management  
1090 Center Drive  
Park City, Utah 84098

Affects Parcel Nos.: See Exhibit A

**FOURTH AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR THE PRESERVE AT PARK CITY**

**THIS FOURTH AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE PRESERVE AT PARK CITY (the "Fourth Amendment")** is made and executed as of  
the Fifteenth  
day of November 2024, by the undersigned being the duly authorized officer and trustee of  
the Board of Trustees (the "**Board**") for The Preserve Homeowners Association, a Utah  
nonprofit corporation (the "**Association**"), pursuant to the provisions of Title 57, Chapter 8a,  
Utah Code Annotated, as amended.

**RECITALS**

A. The Preserve Development Company, LLC, a Utah limited liability company, predecessor-in-interest to FCOI Preserve LLC, a Delaware limited liability company, submitted that certain real property in Summit County, Utah, to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Preserve at Park City dated March 2008, recorded as Entry No. 00840887 on March 28, 2008 in the Summit County Recorder's Office, as amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Preserve at Park City dated September 30, 2019, and recorded as Entry No. 01118945 on October 1, 2019 in the Summit County Recorder's Office, and as further amended by that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Preserve at Park City dated March 29, 2023, and recorded as Entry No. 01202732 on April 7, 2023 in the Summit County Recorder's Office [, and as further amended by that certain Third Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Preserve at Park City dated 11/15, 2024 and recorded as Entry No. on \_\_\_\_\_, 202\_ in the Summit County Recorder's Office] (as amended, the "**Declaration**")

B. The real property described in the attached Exhibit A has been submitted to the Declaration; and

C. This Amendment has been approved by the required affirmative vote of Owners in accordance with Section 5.2 of the Declaration, as affected by Utah Code Ann. §57-8a-104(1).

**WITNESSETH**

**NOW, THEREFORE,** the Declaration is hereby amended as follows, with such amendment to become effective upon the recording of this Fourth Amendment in the Summit County Recorder's Office, State of Utah:

1. Incorporation/Interpretation. The Recitals above shall form a substantive part of this Fourth Amendment. The terms of the Declaration are hereby incorporated into this Fourth Amendment, except as revised below. In the event of a conflict between the terms of this Fourth Amendment and the terms of the Declaration, the terms of this Fourth Amendment shall control. Capitalized terms used in this Fourth Amendment and not defined in this Fourth Amendment shall have the meanings given to such terms in the Declaration.

2. Addition of Section 3.35. Article III of the Declaration is amended by adding the following as Section 3.35 of Article III of the Declaration:

3.35 Fractional Dwelling Units/Co-owned Homes, Timeshares Prohibited. Fractional Dwelling Units/Co-owned Homes are prohibited and shall not be permitted or allowed in The Preserve. A Fractional Use Dwelling Unit/Co-owned Home is considered a non-residential, commercial use within The Preserve. Timeshares are prohibited in The Preserve.

As used in this Section 3.35, "Fractional Use Dwelling Unit/Co-Owned Home" means: Any Dwelling or real property which is owned by a partnership, limited partnership, limited liability company, corporation, or other joint ownership structure or entity in which unrelated persons or entities sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, or membership which are subject to, or subsequently bound by any agreement limiting interest holders' or their designees' right or functional ability to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Other elements of Fractional Use Dwelling Unit/Co-owned Home include: co-ownership or fractional or divided estates, shares, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times; centralized or professional management; reservation systems; maximum or minimum day limits on each interest holder's occupancy or use of the property; or management fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party. This definition shall not include non-commercial family entities, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family entity, partnership, association, or trust as opposed to sold on the free market for commercial purposes.

3. Amendment of Section 3.25. Section 3.25 of Article III of the Declaration is amended by adding the following sentence to the end of Section 3.25 of Article III of the Declaration: "No Lot, Dwelling, or structure within The Preserve shall be used for timeshare development (as defined in the Utah Timeshare and Camp Resort Act) or timeshare use."

4. Ratification. The Declaration, amended herein, shall remain in full force and effect.
5. Certification. Pursuant to Section 5.2 of the Declaration, as affected by Utah Code Ann. § 57-8a-104(1), the Board, by its authorized officer's signature below, hereby certifies that the vote required to amend the Declaration has occurred\_\_and that this Fourth Amendment was approved by said vote.

[Remainder of Page Intentionally Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Fourth Amendment as of the day and year first-above written.

**Association:**

**The Preserve Homeowners Association, a Utah nonprofit corporation**

By: *Lisa Shafer*  
Name: Lisa Shafer  
Its: Authorized Officer and Trustee

STATE OF Utah )  
 ) ss.  
COUNTY OF Summit )

On this, the 15<sup>th</sup> day of November, 2024, before me, the undersigned officer, personally appeared Lisa Shafer, a member of the Board of Trustees and Authorized Officer of The Preserve Homeowners Association, a Utah nonprofit corporation, and that he, being authorized to do so, executed the foregoing instrument for the purpose therein contained and in the capacity therein stated.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

*[Signature]*  
Notary Public



**EXHIBIT**  
**A**  
**TO FOURTH AMENDMENT TO**  
**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND**  
**RESTRICTIONS FOR THE PRESERVE AT PARK CITY**

That certain real property located in Summit County, Utah, and more particularly described as follows:

**1- LOTS 1 through 2, 4 through 10, and 15 through 20 and Open Spaces of THE PRESERVE** as shown within The Preserve Phase I Plat recorded on December 17<sup>th</sup>, 2003 in Summit County, Utah as further described here:

PRESRV-1-1	PRESRV-1-5	PRESRV-1-9	PRESRV-1-17
PRESRV-1-2	PRESRV-1-6	PRESRV-1-10	PRESRV-1-18
	PRESRV-1-7	PRESRV-1-15	PRESRV-1-19
PRESRV-1-4	PRESRV-1-8	PRESRV-1-16	PRESRV-1-20
PRESRV-1-OS-1	PRESRV-1-OS-2	PRESRV-1-OS-3	PRESRV-1-OS-4

**2- LOT 3 of THE PRESERVE** as shown within The Preserve Phase 1 Lot 3 Amended Plat recorded on April 5<sup>th</sup>, 2022 in Summit County, Utah as further described here:

PRESRV-1-3-AM
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**3- LOTS 21 through 26, 28, 33 through 42, 44, and 45 and Open Spaces of THE PRESERVE** as shown within The Preserve Phase 2 Plat recorded on December 7<sup>th</sup>, 2004 in Summit County, Utah as further described here:

PRESRV-2-21	PRESRV-2-26	PRESRV-2-36	PRESRV-2-41
PRESRV-2-22	PRESRV-2-28	PRESRV-2-37	PRESRV-2-42
PRESRV-2-23	PRESRV-2-33	PRESRV-2-38	PRESRV-2-44
PRESRV-2-24	PRESRV-2-34	PRESRV-2-39	PRESRV-2-45
PRESRV-2-25	PRESRV-2-35	PRESRV-2-40	PRESRV-2-AOS-1

**4- LOT 27 of THE PRESERVE** as shown within The Preserve, Phase 2, Amendment to Lot 27 Plat recorded on July 1<sup>st</sup>, 2019 in Summit County, Utah as further described here:

PRESRV-2-27-AM
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**5- LOT 43 of THE PRESERVE** as shown within The Preserve Phase 2 First Amendment to Lot 43 Plat recorded on December 5<sup>th</sup>, 2006 in Summit County, Utah as further described here:

PRESRV-2-43-1AM

**6- LOTS 29 through 32 and 88 of THE PRESERVE** as shown within The Preserve Phase 2A Plat recorded on October 31<sup>st</sup>, 2014 in Summit County, Utah as further described here:

PRESRV-2A-29	PRESRV-2A-30	PRESRV-2A-31	PRESRV-2A-32	PRESRV-2A-88
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**7- LOTS 51 through 66 and 69 through 84 and Open Spaces of THE PRESERVE** as shown within The Preserve Phase 3 Subdivision Plat recorded on August 8<sup>th</sup>, 2007 in Summit County, Utah as further described here:

PRESRV-3-51	PRESRV-3-60	PRESRV-3-71	PRESRV-3-80
PRESRV-3-52	PRESRV-3-61	PRESRV-3-72	PRESRV-3-81
PRESRV-3-53	PRESRV-3-62	PRESRV-3-73	PRESRV-3-82
PRESRV-3-54	PRESRV-3-63	PRESRV-3-74	PRESRV-3-83
PRESRV-3-55	PRESRV-3-64	PRESRV-3-75	PRESRV-3-84
PRESRV-3-56	PRESRV-3-65	PRESRV-3-76	PRESRV-3-OS-1
PRESRV-3-57	PRESRV-3-66	PRESRV-3-77	PRESRV-3-OS-2
PRESRV-3-58	PRESRV-3-69	PRESRV-3-78	PRESRV-3-OS-3
PRESRV-3-59	PRESRV-3-70	PRESRV-3-79	

**8- LOTS 67 and 68 of THE PRESERVE** as shown within The Preserve Phase 3 Subdivision Amending Lots 67 & 68 Plat recorded on December 7<sup>th</sup>, 2018 in Summit County, Utah as further described here:

PRESRV-3-67-AM	PRESRV-3-68-AM
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**9- LOTS 85 through 87 of THE PRESERVE** as shown within the Preserve Phase 3 Amended Lots 85-86-87 Plat recorded on March 31<sup>st</sup>, 2016 in Summit County, Utah as further described here:

PRESRV-3-85-AM	PRESRV-3-86-AM	PRESRV-3-87-AM
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**10- Parcels SS-13-1, SS-13-2, SS-13-3, SS-152-9**

**SS-13-1:**

Beginning at a point East 981 feet from the Northwest Corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; thence East 326 feet along the section line; thence South 1000 feet; thence West 326 feet; thence North 1000 feet to the point of beginning.

Together with the right-of-way at least 50 feet in width over the Milton O. Bitner property conveyed by Craig L. Anderson and subject to all the rights of ways for existing roadways.

**SS-13-2:**

BEGINNING AT A POINT WHICH IS EAST 1307 FEET FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE EAST ALONG THE SECTION LINE 435

FEET; THENCE SOUTH 1000 FEET; THENCE WEST 435 FEET; THENCE NORTH 1000

FEET TO THE POINT OF BEGINNING;

TOGETHER WITH A RIGHT OF WAY AT LEAST 50 FEET IN WIDTH OVER THE MILTON O. BITNER PROPERTY AS CONVEYED BY PRIOR DEED.

**SS-13-3:**

Beginning at a point East 2177 feet from the Northwest Corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; thence East 423 feet along the section line; thence South 1029 feet; thence West 423 feet; thence North 1029 feet to the point of beginning.

Subject to easements, restrictions and rights of way currently of record and general property taxes for the year 2017 and thereafter.

**SS-152-9:**

Commencing at the Southwest corner of Section 32, Township 1 North, Range 4 East, SLB&M, and running thence North 225 feet; thence East 200 feet; thence South 225 feet; thence West 200 feet to point of beginning.