

**THIRD AMENDMENT TO THE
DECLARATION OF CONDOMINIUM OF NAYON HEIGHTS CONDOMINIUM**

This amendment is made and executed on the date set forth below and shall be effective upon recording.

RECITALS

A. Certain real property in Davis County, Utah, known as Nayon Heights Condominium is subjected to certain covenants, conditions, and restrictions as contained in the *Declaration of Condominium of Nayon Heights Condominium*, recorded in the Recorder's Office for Davis County, Utah on June 15, 1973, as Entry No. 381846, in Book 518, pages 456-474 ("Declaration"), and *Amendments to Declaration of Condominium of Nayon Heights Condominium*, recorded in the Davis County Recorder's Office on October 21, 1992, as Entry No. 997330, in Book 1544, pages 886-889 ("First Amendment"), and the *Second Amendment to the Declaration of Condominium of Nayon Heights Condominium*, recorded in the Davis County Recorder's Office on November 21, 2014, as Entry No. 2835293, in Book 6150, pages 686-690 ("Second Amendment").

B. This third amendment shall be binding against the property described in "Exhibit A" and the Declaration, the First Amendment, the Second Amendment, and any annexation or supplements thereto;

C. This third amendment is intended to: 1) regulate smoking within the Nayon Heights Condominium for the health, safety and benefit of all Unit Owners, and 2) to authorize the Management Committee to establish the Nayon Heights Condominium as a non-profit corporation under the laws of Utah, providing all rights and protections to the Unit Owners and management Committee members;

D. The Association deems a smoking restriction in the best interest of the Unit Owners, their health, safety, welfare, and for the quiet use and enjoyment of their Units. The Association also desires to form itself as a non-profit corporation, so as to afford its Unit Owners and volunteer Management Committee members the protections, rights, and powers provided in the Utah Non-Profit Corporation Act, Utah Code Ann. §16-6a-101, *et seq.*, as amended from time to time.

E. Pursuant to Section 12 of the Declaration, owners representing not less than two-thirds (2/3) interest in the Common Areas have approved this Amendment;

NOW, THEREFORE, the Association by and through the Management Committee, hereby amends the Declaration, First Amendment, and Second Amendment, as follows:

Section 23 is hereby added to the Declaration, to read as follows:

Section 23. No Smoking. The Condominium Project is a smoke-free facility. Smoking is prohibited inside the Units and throughout the Project, except as may be allowed by the Management Committee and subject to applicable laws.

Section 1 “Definitions”, subsection (b) of the Declaration is hereby removed in its entirety, and replaced as follows:

(b) The Term “Condominium Project”, or sometimes the “Project” or “Association” shall mean and refer to the entire parcel of Real Property referred to in this Declaration, and shall refer to the Nayon Heights Condominium Association, whose membership shall include each Owner of a Unit in the Condominium Project, as required by the Act. The Association is incorporated as a Utah nonprofit corporation, which, if invalidated for any reason, may be reincorporated at the discretion of the Management Committee, and may utilize such name that the Management Committee shall select in any such reincorporation or reorganization. In case of the formation of any such entity, “Association” as used in this Declaration shall refer to that entity.

EXECUTED this ____ day of _____, 2015.

Nayon Heights Condominium Association

By: _____

Title: _____

STATE OF UTAH)
)SS:
COUNTY OF _____)

On the ____ day of _____, 2015 personally appeared before me _____, who by me being duly sworn, did say that he/she is the _____ of the Nayon Heights Condominium and that the foregoing amendment was approved by at least 67% of the total votes of the Association.

Notary Public

EXHIBIT "A"

Legal Description of Units at Nayon Heights Condominium

All Units and common area in the Nayon Heights Condominiums, Davis County, Utah.

Parcel ID Numbers 100120001 through 100120057

Beginning at a point South 89-30'40" West 621.88 feet and North 0-27'15" West 27.43 feet from the Southeast corner of the Southwest Quarter of Section 15, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. survey, and running thence North 0-27'15" West 600.43 feet; thence West 219.85 feet; thence South 0-17' East 137.42" feet; thence West 171.15 feet; thence South 0-24' East 462.43 feet; thence South 89-55' East 391.85 feet to the point of beginning, containing 4.85 acres . EXCEPTING THEREFROM, Nayon Street therein, which is a public street.