

AFTER RECORDING RETURN TO:

Altitude Community Law P.C.
555 Zang Street, Suite 100
Lakewood, CO 80228
Attn: DAF

**LIMITED AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
PITKIN CREEK TOWNHOUSES**

THIS AMENDMENT is made this 22nd day of Sep, 2023.

RECITALS

A. P&R Enterprises created THE FALLS AT VAIL TOWNHOUSE ASSOCIATION ("Community") by recording a Declaration of Covenants, Conditions and Restrictions for Pitkin Creek Townhouses, in the real property records of the County of Eagle, State of Colorado, at Reception No. 178610, on February 21, 1979 (the "Declaration").

B. The Declaration provides for and allows for this Limited Amendment to the Declaration of Covenants, Conditions and Restrictions for Pitkin Creek Townhouses, (the "Amendment") in Article XI, Section 11.2, which provides as follows:

This Declaration shall not be amended unless owners representing two-thirds (2/3) or more of the townhouse real property interests, two-thirds (2/3) or more of the persons holding recorded first mortgages or being the beneficiaries of recorded first deeds of trust encumbering all or any part of the properties, and the Town of Vail Planning and Environmental Commission, Vail, Colorado, consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interests in the Common Area appurtenant to each townhouse unit shall have a permanent character and shall not be altered without the consent of all owners and all persons holding recorded first mortgages or being the beneficiaries of recorded first deeds of trust encumbering all or any part of the properties, and such consent shall be duly expressed in the recorded amended Declaration.

C. All Owners are aware of the provisions of the Declaration allowing for amendment, by virtue of the record notice of the Declaration, by acts and disclosures, newsletters or notices of the Association and by other means.

D. This Limited Amendment has been prepared, approved, and determined by the Association and the Owners to be reasonable and not burdensome.

E. The purpose of this Limited Amendment is to shift insurance responsibilities from the Association to Owners due to the increasing costs of association insurance policies.

F. The undersigned, being the President and Secretary of the Association, hereby certify that Owners representing at least 2/3 of the Association votes have consented and agreed to this Limited Amendment. Additionally, the undersigned, being the President and Secretary of the Association, hereby certify that at least 2/3 or more of all persons holding recorded first mortgages or being the beneficiaries of recorded first deeds of trust encumbering all or any part of the properties, and the Town of Vail Planning and Environmental Commission, Vail, Colorado, have consented and agreed to this Limited Amendment.

G. As amended by this Limited Amendment, this amendment shall become part of and incorporated into the "Declaration."

NOW THEREFORE,

I. Amendments. The Original Declaration is hereby amended as follows:

(a) **Repeal and Restatement.** Article V, Section 4 is hereby repealed in its entirety and the following Article V, Section 4 is substituted:

4. At any time and from time to time and in addition to the annual assessment, the Board of Directors may levy a special assessment against each real property interest for the year in which the special assessment is levied, for the purpose of paying for any item which should be paid out of the annual assessments but for which there are not sufficient funds available and for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any improvement within the Common Area, including the necessary fixtures and personal property related thereto, or of any townhouse unit. Any such special assessment which is in excess of twenty-five percent (25%) of the previous year's annual assessment, except in the case of special assessments for the repair of damage to the property as hereafter provided, must be approved by two-thirds (2/3) of the owners present in person or by proxy at a meeting specially called for that purpose. Special Assessments levied to repair damage to property may be assessed to those Owners in relation to the actual cost to repair and restore their individual Unit.

(b) Repeal and Restatement. Article VIII, Section 1(a) is hereby repealed in its entirety and the following Article VIII, Section 1(a) is substituted:

(a) Physical Damage Insurance on Improvements. To the extent reasonably available, the Association shall obtain insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without deduction for depreciation, for all insurable improvements located on the Common Elements and may, if approved by a majority of all owners, obtain all risk coverage on the Lots.

i. The Executive Board, on behalf of the Association may also obtain any additional endorsements which it deems advisable and in the best interests of the Association.

ii. The insurance described in this Section shall be inflation coverage insurance, if such insurance is available, which shall represent 100% of the replacement value exclusive of land, foundation, excavation and other items normally excluded from coverage.

iii. At least every three years, the Association may obtain an appraisal for insurance purposes which shall be maintained as a permanent record showing that the insurance in any year represents 100% of the replacement value of the insured property.

iv. The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(c) Repeal and Restatement. Article VIII, Section 8.4 is hereby repealed in its entirety and the following Article VIII, Section 8.4 is substituted:

Section 8.4 Insurance Obtained by Owners.

i. Unless approved as set forth in Article VIII, (1)(a) of this Limited Amendment, each Owner shall be responsible for maintaining insurance which covers his Lot and improvements thereon to the extent not covered by policies maintained by the Association. Such insurance shall include, but shall not be limited to, physical damage to the components to the Lot and Unit not insured by the Association, furnishings and personal or other property in the Unit and liability insurance for injury, death or damage in the dwelling or upon the Lot. Any such policy shall contain waivers of subrogation and shall be so written that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished thereby. On an annual basis, each Owner shall deliver to the Association

evidence of insurance on the Unit meeting the minimum requirements set forth herein.

ii. Each policy of insurance obtained by the Owner shall contain the following provisions:

- a. Name the Association as an additional insured on such policy;
- b. Contain a deductible no greater than 2% of the face value of the policy.
- c. Shall contain inflation coverage insurance, if such insurance is available, which shall represent 100% of the replacement value exclusive of land, foundation, excavation and other items normally excluded from coverage.
- d. Shall contain law and ordinance rider sufficient to cover all changes in construction laws and ordinances.

iii. If an Owner (i) fails to obtain the insurance required above, (ii) allows such insurance to lapse or (iii) fails to provide proof of insurance to the Association, upon no less than 10 days written notice, the Association may obtain, on the Owner's behalf and at the Owner's sole cost and expense a policy that complies with this Section 8.4.

iv. Home Owners have full responsibility for maintaining adequate coverage for their dwelling, contents and liability at all times. The HOA in no way assumes liability for each owner maintaining proper Home Owner's insurance coverage that complies with this Section 8.4.

(d) **Repeal.** Article VIII, Section 8.5 is hereby repealed in its entirety.

(e) **Repeal and Restatement.** Article IX, Section 4 is hereby repealed in its entirety and the following Article IX, Section 4 is substituted:

4. In the event of damage or destruction of any improvement on the properties due to any cause insured against regardless of the insured party, the proceeds of the insurance collected by any Owner or the Association shall be available to the Association, and the Association shall promptly apply such proceeds towards the repair and reconstruction of the improvements damaged or destroyed.

II. **No Other Amendments.** Except as amended by the terms of this Amendment and previous amendments and supplements, the Original Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by the undersigned.

THE FALLS AT VAIL TOWNHOUSE ASSOCIATION,
a Colorado nonprofit corporation

By: John G. Oemick
President

By: L. Jane Peto
Secretary

STATE OF COLORADO)
WISCONSIN) ss.
COUNTY OF DANE)

The foregoing was acknowledged before me this 22 day of SEPTEMBER 2023, by JOHN OEMICK, as President of The Falls at Vail Townhouse Association.

Witness my hand and official seal
My commission expires: 05/25/27

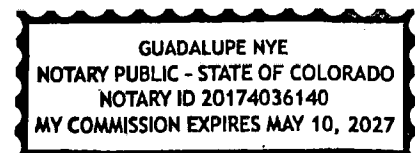


[Signature]
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF Eagle)

The foregoing was acknowledged before me this 29th day of September 2023 by L. Jane Peto, as Secretary of The Falls at Vail Townhouse Association.

Witness my hand and official seal.
My commission expires: 05-10-2027



[Signature]
Notary Public