

Preferred Property Management
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St George UT 84770

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Amended Restrictive Covenants
Russell Shirts Washington County Recorder
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By PREFERRED PROP MGMT

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**AMENDED AND RESTATED DECLARATION OF THE
COVENANTS, CONDITIONS AND RESTRICTIONS OF
RIVER SHADOW ESTATES HOMEOWNERS ASSOCIATION**

RECITALS

- A. The Property subjected to these covenants, conditions and restrictions is located in Washington, Washington County, Utah, and is more particularly described below.
- B. All of the Properties described and referenced herein have been subjected to the aforementioned protective covenants, conditions, restrictions, reservations, liens, charges and assessments and are more fully described hereafter.
- C. An Association of homeowners has been created. This Declaration shall replace and supersede, in its entirety, any other Declaration[s] of Covenants, Conditions and Restrictions for River Shadow Estates previously recorded against the Properties. The most recent Declaration being dated July 31, 2002, and recorded with the Washington County Recorder Book 1485 Page 2132.
- D. River Shadow Estates shall be a Utah Nonprofit Corporation, formed to administer the terms of this Declaration. If said nonprofit status shall lapse, it shall be operated as a nonprofit entity until such time as it is formally reinstated. The Trustees may reinstate any lapsed corporate status.

DECLARATION

All of the Property described below shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, reservations, assessments, charges, liens, and to the Official Plat Map. This is for the purpose of protecting the value and desirability of said Property. This Declaration and the Official Plat Map shall be construed as covenants of equitable servitude which shall run with the land and shall be binding on all parties having any right, title, or interest in the described Property, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

The Properties are located in Washington, Washington County, Utah and are described as:

River Shadow Estates Lots 1 through 46.

RIVER SHADOWS ESTATES
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
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ARTICLE I
DEFINITIONS

The following definitions control in this Declaration. Words and phrases not defined in this Article shall be given their ordinary meaning and are not generally capitalized in the Declaration.

Section 1. Annual Assessment means that assessment levied by the Association to provide for the normal costs associated with managing the Association such as but not limited to Association taxes, Property insurance, repairing, replacing and, maintaining the Common Areas. Annual, special and additional assessments are further described in Article IV, Finances and Operations.

Section 2. Association means River Shadow Estates Homeowner Association, Inc., its successors and assigns.

Section 3. Common Area means that portion of Property owned by the Association, shown on the Plat as dedicated to the common use and enjoyment of the Owners along with improvements on these.

Section 4. Community Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in River Shadow Estates. This Community Standard may be more specifically defined by the Trustees and shall serve as a standard against which behavioral, architectural and landscaping infractions are determined.

Section 5. Declaration means this instrument, and any amendments.

Section 6. Fines means a punitive monetary or other such punitive measures levied against an Owner for violations of this Declaration, Bylaws, and/or Rules and Regulations of the Association and applicable Architectural Guidelines. Said monetary Fines shall be collectable as an assessment against the Lot.

Section 7. Home means a single family dwelling with or without walls or roofs in common with other single family dwelling Lots. "Home" includes fee title to the real Property lying directly beneath the single family dwelling, within Lot boundary lines.

Section 8. Lot means a separately numbered and individually described plot of land shown on the Plat designated for private ownership, but specifically excludes the common areas.

Section 9. Member means every person or entity who holds membership in the Association. Every Member is an Owner, and every Owner is a Member.

Section 10. Mortgage includes "deed of trust" and mortgagee includes "trust deed beneficiary."

Section 11. Owner means the entity, person, or group of persons owning fee simple title to any Lot which is within the Properties. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner." The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure

or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership. Membership in the Association automatically transfers upon transfer of title by the record Owner to another person or entity.

Section 12. Plat or Map means the subdivision Plat recorded herewith entitled "River Shadow Estates, consisting of one sheet, prepared and certified by Kenneth A. Hamblin, a Utah Registered Land Surveyor" or any replacements thereof, or additions thereto.

Section 13. Property or Properties means that certain real Property hereinbefore described, and such additions thereto as may hereafter be subjected to this Declaration.

Section 14. Trustees means the governing body of the Association.

ARTICLE II **PROPERTY RIGHTS**

Section 1. Owners' Easements of Enjoyment Every Owner has a right and easement of use and enjoyment in and to the Common Area, except as limited herein. This easement is appurtenant to and passes with the title to every Lot, subject to:

- a) The right of the Association to suspend the voting rights and/or common utility service of a Member for any period during which any assessment or portion thereof against his Property remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.
- b) The right of the Association to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration;
- c) The right of the Association with the approval of a majority (51 %) of Owners, to sell, exchange, hypothecate, alienate, Mortgage, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility.
- d) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.
- e) The right of the Association to take such steps as reasonably necessary or desirable to protect the Common Area against foreclosure.
- f) The right of the Association to impose reasonable limitations on the number of guests per Member at any given time that are permitted to use the Common Areas.
- g) The right of Washington County, Washington city, and any other governmental or quasi governmental body having jurisdiction over the Property, and any private or public utility company serving the Project to access, and rights of ingress and egress over, through, or

under the Common Areas for purposes of providing police and fire protection, transporting school children, and providing any other governmental, municipal, or utility service to the Project or the Additional Land.

- h) The terms and conditions of this Declaration.
- i) The right of the Association, through its Trustees, to adopt rules and regulations concerning use of the Common Area.

Section 2. Delegation of Use An Owner is deemed to delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property. No one who is non-resident shall have any such delegable right of enjoyment.

Section 3. Lot. Each Lot is owned in fee simple by the Owner. The care, maintenance and repair of the above described area shall be the responsibility of the Owner.

Section 4. Notice and Hearing In the event of a claimed violation of the Declaration, By-laws, or administrative rules and regulations as they may be adopted by the Trustees from time to time governing the Association an Owner or Resident shall be entitled to the following:

- a) **Notice.** Written notice specifying the nature of the alleged violation providing any other appropriate information] and stating the time, date and place at which the Owner or Resident will have an opportunity to be heard. Notice shall be given at least fifteen [15] days prior to and no longer than thirty [30] days before the date set for the hearing. The notice may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered four [4] business days after it has been deposited with the U.S. Postal Service, regular mail, postage prepaid, addressed to the Owner or Resident at the address given by the Member to the Trustees for the purpose of service of notice, or to the address of the Owner or Resident if no other address has been provided. The address of an Owner or Resident for the purposes of notice may be changed from time to time by delivery of written notice to the Trustees.
- b) **Costs and Assessments.** If the violation, or the failure to correct or remedy a violation, results, The Board of Trustees may levy Fines as indicated in Section 9.3.
- c) **Final Determination.** After the hearing has taken place, the Trustees shall determine whether a violation has occurred and, if so, the Trustees may: [1] levy an Assessment or impose conditions which shall become effective not less than five [5] days after the date of the hearing; [2] take such other action as it may deem appropriate. [3] The voting rights of Owner shall be suspended during any period of delinquency of assessments. The determination of the Trustees shall be final.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership Every Owner is a Member of the Association. The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership. Membership in the Association automatically transfers upon transfer of title by the record Owner to another person or entity.

Section 2. Voting Rights The Association has one class of voting membership: All Members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be a Member. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such co-owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

ARTICLE IV
FINANCES AND OPERATIONS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each subsequent owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association:

- (a) Annual Assessments or dues;
- (b) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided;
- (c) Any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration,
- (d) Interest, costs of collection and a reasonable attorney's fee, as hereinafter provided whether or not a lawsuit for collections is initiated.
- (e) Individual Assessment

All such amounts shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such Property at the time when the assessment fell due. Successors in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

Section 2. Purpose of Assessments The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties and (b) for the improvement and maintenance of Properties, services, and facilities devoted to this purpose. The assessments must provide for but are not limited to, the payment of taxes on Association Property and insurance maintained by the Association; the payment of the

cost of repairing, replacing, maintaining and constructing or acquiring additions to the Common Areas; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of those Common Areas which must be replaced on a periodic basis; and other amounts required by this Declaration or that the Trustees shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Trustees, for the payment of other charges including, without limitation, maintenance, management, and Common Area water charges [if any].

Section 3. Regular Assessment. As of January 1 following the original recording of this revision to the Declaration, the Annual Assessment shall be Six Hundred Dollars [\$600] per Lot. The assessment will be paid in monthly payments equal to 1/12th the Annual Assessment. This amount shall be the basis of calculation for future Annual Assessments.

- a) From and after the date referred to above the Annual Assessment may be increased each year by five percent [5%] above the assessment for the previous year, without a vote of the membership. The Trustees are not required to levy an Annual Assessment each year.
- b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of fifty percent (50%) of the votes of the Members, voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements In addition to the Annual Assessments, the Association may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common Area streets, structures, fixtures and personal Property related thereto. Special assessments must have the assent of the majority (51 %) of the votes of the Members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

Section 5. Additional Assessments In addition to the Annual Assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common Areas from the activities of the City of Washington in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise is in the City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting of Members called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all Members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of Members, or of proxies, entitled to cast fifty percent (50%) of all the votes of the membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called immediately, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the

preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment: Periodic Assessment Both annual and special assessments must be fixed at a uniform rate for all Lots. Special and additional assessments may be collected on a monthly or quarterly basis, as the Trustees determine.

Section 8. Regular Assessments: Due Dates Each assessment period begins on January 1 and ends on December 31 of each year. The regular monthly assessment is due on 1st day of each month. In the absence of a determination by the Trustees as to the amount of said assessment, the Annual Assessment shall be an amount equal to the previous year's Annual Assessment determined as provided above. The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Trustees shall prepare a roster of the Properties and the assessments applicable thereto at the same time that it shall fix the amount of the Annual Assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any Member at reasonable times.

Section 9. Individual Assessment: Individual assessment is an assessment charges against a single owner or group of owners for expenses that are not common to the entire community.

Section 10. Effect of Non-Payment of Assessment - Remedies of the Association Any assessment or installment thereof not paid within thirty (30) days after the due date therefore shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Trustees shall determine appropriate) until paid. In addition, the Trustees may assess a late fee for each delinquent installment which shall not exceed twenty per cent (20%) of each delinquent installment.

The Trustees may, in the name of the Association, (a) bring an action at law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of Mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent Member.

(d) At the discretion of the Trustees and consistent with the Declaration, if applicable, the utility service to any Owner or occupant of any unit paid for by assessments, or the right to use the recreational facilities or amenities, may be terminated if the Owner or occupant is in arrears on his or her obligation to pay assessments and has failed to cure or make satisfactory arrangement to cure the default after reasonable notice.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the Lot from time to time of commencement of the foreclosure.

The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security. Utah Code 57-8a-204 and 205, as may be amended from time to time is hereby incorporated into this Declaration in order to facilitate the collections of assessments.

A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale, the Lot of an owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale and foreclosure.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot.

Section 11. Subordination of the Lien to Mortgages The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage held by an institutional lender or insured by the Federal Housing Administration or the Veterans Administration if the Mortgage was recorded prior to the date the assessment became due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first Mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Lot or owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

Section 12. Books, Records and Audit The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot owners and insurers as well as by holders, insurers and guarantors of first Mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A Lot owner or holder, insurer or guarantor of a first Mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE V **INSURANCE**

Section 1. Casualty Insurance on Insurable Common Area The Trustees shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other Property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association:

Insurance proceeds shall be used by the Association for the repair or replacement of the Property for which the insurance was carried. Premiums for all insurance carried by the Association are

common expenses which shall be included in the regular Annual Assessments made by the Association.

Each owner is responsible for maintaining insurance in an amount deemed appropriate by owner, upon the owner's private Property, including the Lot and personal Property and all improvements owned by the owner of the Lot. THE ASSOCIATION SHALL HAVE NO DUTY TO INSURE AGAINST ANY NEGLIGENT ACTS OR EVENTS OCCURRING AT OR ON A LOT OR IN A HOME.

Section 2. Replacement or Repair of Property In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the Property damaged or destroyed, the Association may make a reconstruction assessment against all Lot owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Lot owner.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees are empowered to and shall represent the Members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each owner for this purpose.

Section 3. Liability Insurance The Trustees shall obtain a comprehensive policy of public liability insurance covering all of the common Property for at least \$1,000,000.00 per occurrence for personal or bodily injury and Property damage that results from the operation, maintenance or use of the Common Areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an owner because of negligent acts of the Association or other owners.

Section 4. Fidelity Insurance The Trustees may elect to obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the owners or Members. In procuring fidelity insurance the Trustees shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of [i] three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

Section 5. Annual review of Policies All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements, of the Property which may be damaged or destroyed.

Section 6. Claim due to Negligence or Misconduct: In the event that the Association makes a claim on its policy (for damage to the Common Areas) due to the negligence or intentional misconduct of Members, their guests or tenants, then the Association may require that the Member pay any applicable deductible

ARTICLE VI
EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance by Owner Each owner shall be responsible for maintenance to the exterior of the Home owned and the Lot as shown on the Plat. The Trustees shall, however, in the default of the owner to perform maintenance which is the owner's responsibility, and after a two-thirds [2/3] vote of the Trustees, and after ten days written notice [which notice shall not be required in the event of emergency or threat to life, health, Property or safety], provide exterior maintenance upon each Home and Lot, and appurtenant thereto. The cost of such maintenance shall be assessed against the Lot or Home.

Section 2. Exterior Maintenance by Association The Association shall be responsible for maintenance upon the Common Area. The cost of such maintenance shall be a common expense.

Section 3. Access at Reasonable Hours For the purpose solely of performing the maintenance required by this article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any Lot at reasonable hours.

Section 4. Exterior Maintenance. Trash containers must be stored in the garage of the homeowner except for the night before and day of scheduled pickup service. If the homeowner does not want to store the trash container in the garage, they may store the container at either side or behind their Home provided they build an obstruction shield around the container from other residents. In either case the obstruction choice must be approved by the Architectural Control Committee. Other yard maintenance items must be stored in the garage and should not be left out to cause deterioration of the view of other homeowners. Front yards and areas visible from Common Areas must be kept clean and debris free.

ARTICLE VII
USE RESTRICTIONS

Section 1. General Use Restrictions All of the Properties which are subject to this Declaration are hereby restricted to residential dwellings, and buildings in connection therewith, including but not limited to community buildings on the common Property. All buildings or structures erected in the Properties shall be of new construction and no buildings or structures shall be removed from other locations to the Properties. After the initial construction on a Lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that Lot. No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time.

No part of the Property shall be used for any commercial, manufacturing, mercantile, storing, vending, or other such non-residential purposes.

Section 2. Signs; Commercial Except for one "For Sale," sign of not more than six [6] square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Properties. No "For Rent or For Lease" signs greater than two (2) feet by one and one-half (1 1/2) feet will be permitted.

Signs or banners displayed so as to be seen through a window are not permitted. Standard security signs from security providers will be permitted if approved by the ACC. Commercial activities of any kind whatever shall not be conducted in any building or on any portion of the Properties. Signs indicating "Private Property", "No Trespassing", "Restricted Parking", or other signs which the Trustees find reasonable and necessary, including but not limited to warning signs indicating a possible area in the Property which could pose a danger shall be allowed.

Section 3. Planting and Gardening. Property owner[s] or the Homeowner Association shall not construct, plant, or maintain any fence, wall hedge, tree, foliage or other planting or structure which obstructs or unreasonably detracts from the views of other Property[ies], including the Common Areas, without prior approval by the Architectural Control Committee and the Trustees.

Section 4. Quiet Enjoyment No noxious or offensive activity shall be carried on upon any part of the Properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners or which shall in any way increase the rate of insurance.

Section 5. Animals No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Lot owners as determined by the Trustees. Owners must comply with orders of the Trustees within five [5] days. All pets must be kept in the Lots or on a hand-held leash when in the Common Areas.

For any animal or breed which could be reasonably perceived to adversely effect the ability of River Shadow Estates to maintain and/or procure reasonable liability insurance, the Homeowner shall be directed by the Board of Trustees to remove the animal from the community. By way of illustration and not by limitation, exotic pets such as snakes, reptiles, Gila monsters, or monkeys will not be allowed. Any unit owner considering acquiring, housing, or bringing into the community an animal which falls within the foregoing considerations must request, in writing, to the Board of Trustees, permission to acquire such an animal. The homeowner may submit a notice of appeal, requesting a hearing before the entire Board of Trustees. A hearing will be provided at the next regularly scheduled meeting not to exceed thirty [30] days from date of request. The decision of the Trustees concerning the appeal shall be final.

Section 6. Use of Common Area Except for the rights of ingress and egress, owners are hereby prohibited and restricted from using any of said Common Area, other than as permitted in this Declaration of covenants or as may be allowed by the Trustees. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all owners of Lots in the Properties and is necessary for the protection of the interests of all said owners in and to the Common Area.

Section 7 Parking. No motor vehicle which is inoperable shall be allowed within the private roads, Common Areas or driveways, and any motor vehicle which remains parked on the streets within the Properties for more than 72 consecutive hours shall be subject to removal by the

Association at the owner's expense. Any recreational vehicle, boat, travel trailer or similar property which remains parked on the streets within the Properties for more than a consecutive period of 24 hours without prior written consent of the Trustees shall be subject to removal by the Association at owner's expense. Only personal, non-commercial, operational motorized vehicles may be parked on driveways within the front set back area and may never overhang the back of the curb extending into the roadway. "Front set back area" is defined as within eighteen [18] feet from the back of the curb.

Parking of attended vehicles may occur on either side of the street during a social gathering but should not be parked on the private street within the subdivision for more than 72 hours. "Attended" means the driver is present on the Properties and can move the vehicle if requested. Parking is never allowed within twenty [20] feet of a corner intersection under any circumstances.

In every event, an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles. The offending vehicle will be towed and the cost assessed to the owner as any other assessment under this Declaration.

Vehicles entering the Properties belonging to contractors providing services and/or maintenance for owners will be allowed only during those times during the day which are necessary for the performance of their service.

All vehicles of Owners and or Tenants remaining overnight may be parked on the Lot and not on the Private Street of the Project. All such vehicles must be parked in the garage, driveway or behind fencing behind the front setback.

The Trustees, by rule, may provide more restrictive definition to this section.

Section 8. External Apparatus No Lot owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

The Association does not desire to interfere with personal decorating decisions or seasonal decorations so long as the decorations adhere to the current architectural design and exterior appearance. If the prior written approval of the Board of Trustees is not obtained, the Trustees reserve the right to review and disapprove any decorations or external apparatus requiring their removal.

Section 9. Exterior Television or Other Antennas No exterior radio, television or other antennas, except one television antenna which shall not exceed four feet in height, per Lot, shall be placed, allowed or maintained upon any Lot or upon any structure or portion of the improvements situated and located upon the Properties without prior written approval of the Trustees, with the following exception:

Direct to Home satellite, video or data dishes or antennas that are less than one meter [39.37"] in diameter. All antennas must be manufacturer-provided grey in color or painted to blend into the

color scheme of the surroundings. No antenna may be placed at or upon the front of the house or roof unless such position is required to receive an acceptable quality satellite or local over-the-air signal as defined by the FCC. The height of said antenna[s] may only exceed the roof line sufficiently to receive/transmit an acceptable satellite or local over-the-air quality signal as defined by the FCC.

If the prior written approval of the Trustees is not obtained, the Trustees reserve the right to review and disapprove any antennas, requiring their removal or relocation.

Section 10. Garbage Removal All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers.

Section 11. Oil and Mining Operations No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties of any Lot. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Properties or any Lot.

Section 12. Interior Utilities All utilities, fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a Lot, shall be maintained and kept in repair by the owner thereof. An owner shall do no act or any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Lots or owners.

Section 13. Leasing/Rental Policy. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. A copy of the agreement shall be provided and placed on file with the Association. Any failure by the lessee to comply with the terms of such documents shall be a default under the lease and the Association, as an intended third-party beneficiary, has standing and authority to remove the tenant in the event that the owner fails to remedy continued violations of its tenant.

Section 14. Motorbikes. All motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four wheel drive recreational type vehicles are to be operated only by individuals with driver's licenses and only on established streets and parking areas and are specifically prohibited from all other portions of the Common Areas

ARTICLE VIII **EASEMENTS**

Section 1. Utilities There is hereby created a blanket easement upon, across, over and under all of the Properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Properties, provided that all such services shall be placed underground, except that said public

utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties in such a way as to unreasonably encroach upon or limit the use of the Common Area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document Association shall have the right to grant such easement on said Property without conflicting with the terms hereof.

Section 2. Maintenance by Association An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the Common Areas and any Lot to perform the duties of maintenance and repair.

Section 3. Other Easements The easements provided for in this Article shall in no way affect any other recorded easement.

Section 4. Police, Fire and Ambulance Service An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common Area in the performance of their duties.

ARTICLE IX BOARD OF TRUSTEES

Section 1. Number The affairs of this Association shall be managed by a Board of Five (5) Trustees who shall be members of the Association.

Section 2. Term of Office. All Trustees shall be elected by the members for a term of two (2) years, or until their successors are elected and qualified.

Section 3. Resignation and Removal Any Trustee may resign at any time by delivering a written resignation to the President of the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member may be removed by a majority vote of the members of the Association.

Section 4. Vacancies. If any vacancy shall occur in the Board of Trustees by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies may be filled by the Board of Trustees at any regular or special Board meeting.

Section 5. Compensation. Members of the Board of Trustees shall serve without compensation. However, any Trustee may be reimbursed for his/her actual expenses incurred in the performance of duties.

Section 6. Regular Meetings. The Board of Trustees shall meet annually within 30 days after the annual meeting of members and, in addition to the annual meeting, shall meet at regular meetings established as to time and place by resolution of the Board.

Section 7. Special Meetings. Special meetings of the Board of Trustees shall be held when called by the President of the Association, or by any two (2) Trustees, after not less than three (3) days notice to each Trustee.

Section 8. Quorum. A majority of the member of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 9. Action Taken Without a Meeting. The Trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

ARTICLE X AUTHORITY AND DUTY OF TRUSTEES

Section 1. Authority. The Board of Trustees shall have authority to:

- (a) Adopt and publish rules and regulations governing the use of common Areas and the personal conduct of the Members and their guests. As stated herein, the Trustees shall also have the authority to levy reasonable Fines for the infraction of any rule, regulations, covenant, restriction or Bylaw. These rules of the Association shall be compiled and copies shall be made available for inspection by all Members.
- (b) Suspend the voting rights and right to use the Common Areas of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association.
- (c) Levy Fines against Owners and Lots for violation of the provisions of this Declaration, the By-laws, Supplementary Restrictions, or rules and regulations. The amount of the Fines shall be determined by the Trustees and shall be published in a Schedule of Fines. The Trustees shall have the right to amend the Schedule of Fines from time to time as it sees fit. Fines shall be considered an assessment against the Lot and shall be collectible as an assessment pursuant to Article 4 herein.
- (d) Determine whether to employ or contract with a professional manager to perform of all or part of the duties and responsibilities of the Association, and shall have the power to delegate its power to committees, officers and employees.
- (e) Employ such independent contractors, and other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the Duty of the Board of Trustees to

- (a) Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Members at the Annual Meeting of its Members.
- (b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.
- (c) As more fully provided in the Declaration, to:
 - a. Fix the amount of the annual assessment against each Lot.
 - b. Bring an action at law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment
 - c. Foreclose the lien against the Property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of Mortgages, or in any other manner permitted by law.
- (d) Procure and maintain adequate liability and hazard insurance on property owned by the Association.
- (e) Cause the Common Areas to be maintained.

ARTICLE XI
OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Trustees, a Secretary, and a Treasurer, and such other officers as the Board may by resolution create.

Section 2. Election of Officers. The election of Officers shall take place at the Annual Meeting or at the first meeting of the Board of Trustees following each annual meeting of Members.

Section 3. Term. The Officers of this Association shall be elected annually by the Board and each shall hold office for two(2) years and until his successor is elected and qualified, unless he shall sooner resign, or shall be removed or other disqualification of service.

Section 4. Resignation and Removal Any Officer may resign at any time by delivering a written resignation to the President of the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Officer may be removed by a majority vote of the members of the Association.

Section 5. Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special Board meeting.

Section 6. Duties. The duties of the officers are as follows:

- (a) **President** – The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolution of the Board are carried out; and shall act as chief executive officer.
- (b) **Vice-President** – The Vice-President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.
- (c) **Secretary** – The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and its Members; serve notice of meeting of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board
- (d) **Treasurer** – The Treasurer shall receive and deposit in appropriate bank or savings and loan accounts all monies of the Association and shall disburse such funds as directed by resolution of the board of Trustees; keep proper book of accounts, cause an annual review of the Association books to be mad by a public accountant; and shall prepare an annual budget and statement of income and expenditures to be presented to the Membership at its regular Annual Meeting.

ARTICLE XII **ARCITECTURAL CONTROL COMMITTEE**

No structure, building, fence, wall or addition, extension or expansion of any of the foregoing shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration to any Lot or Home be made until the plans and specification showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Trustees or, if such a committee is in existence, by an Architectural Control Committee composed of three (3) or more owners appointed for a term determined by the Trustees. Trustees or their designated committee shall approve or disapprove such design and location. Approval or disapproval shall be required to comply with this article.

The Architectural Control Committee and the Trustees shall ensure the Community Standards are maintained and complied with as indicated in Article I, Section 13 and more specifically defined in the Bylaws, or the Rules and Regulations of River Shadow Estates. The Architectural Control Committee may recommend to the Trustees, rules and regulations, which if enacted, shall be binding on all owners in order to administer the terms of this article.

Fencing, walls and other barriers shall be approved by the Architectural Control Committee and constructed of an approved material and color. No fences shall be constructed in the front setback area. Chain link or wooden fencing or gates is not permitted.

The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to requests made pursuant to this article.

If the Architectural Control Committee is incomplete or has not been appointed, the Trustees will serve as the Architectural Control Committee. Unless an Architectural Control Committee has been formed, any reference to the Architectural Control Committee shall mean the Trustees.

ARTICLE XIII **GENERAL PROVISIONS**

Section 1. Enforcement The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any owner to do so thereafter.

In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing owner a reasonable attorney's fee. The Trustees may levy a Fine or penalty as shown in the Schedule of Fines, against any owner who fails to refrain from violation of these covenants or a rule of the Association, after written notice as provided in Article IX, Section 4.

Section 2. Severability All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if anyone of said conditions, covenants, or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Association and owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 3. Duration The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this revised Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten [10] years.

Section 4. Amendment Amendments to the covenants, conditions and restrictions of this Declaration may be proposed by either [1] a majority of the Trustees or [2] Owners holding thirty percent [30%] or more of the voting rights.

The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than fifty percent [50%] of the Members. Any amendment receiving approval

of fifty [50%] of the membership must be properly recorded in the records of Washington County, Utah to become effective.

Section 5. Notices Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

Section 6. Topical Headings The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

Section 7. Gender and Grammar The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 8. Waivers No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it.

**ARTICLE XIV
ASSIGNMENT OF POWERS**

The River Shadow Estates Homeowner's Association has all rights and powers of this Declaration. This Declaration supersedes any previous document.

Dated this 1 day of April, 2010
By River Shadow Estates Homeowner's Association

Trustees

Neil A Bennett
Neil Bennett, President

Date April 1, 2010

Derrick Nelson
Derrick Nelson, Secretary

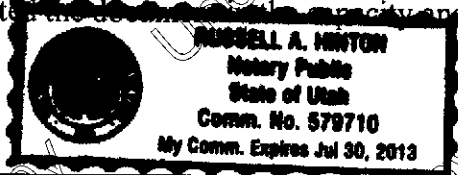
Date April 10, 2010

State of Utah

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)ss.

County of Washington

On this 1 day of April, 2010, before me personally appeared Neil Bennett and Derrick Nelson, whose identity is personally know to me or provided to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that they are the President and Secretary of River Shadow Estates Homeowners Association, and that the foregoing instrument was signed by proper authority, and acknowledged before me that they executed the document in their capacity and for its stated purpose.



[Signature]

NOTARY PUBLIC