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When recorded return to:  
Corinne Schmalz, c/o Ence Homes  
619 South Bluff St., Tower 2  
St. George, UT 84770

**DOC # 20200031662**

Amended Restrictive Covenants  
Russell Shirts Washington County Recorder  
06/23/2020 03:35:16 PM Fee \$ 40.00  
By CORINNE SCHMALZ

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**SECOND AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF ELMWOOD SUBDIVISION**

FACTION, LLC, a Utah limited liability company (hereinafter "Declarant") hereby amends the following portions of the Declaration of Covenants, Conditions and Restrictions for Elmwood Subdivision (hereinafter "Declaration") as set forth herein, pursuant to its authority under Article 7 of said Declaration, which Declaration was recorded on the 14<sup>th</sup> day of November 2017, as DOC No. 20170045959 in the records of the Washington County Recorder, and affecting the real property located in Washington County, Utah, more particularly described as recorded phases of Elmwood Subdivision, as follows:

Phase 1 Lots: per the Official Plat of Elmwood Subdivision, Phase 1, said Lots being:

SG-ELWD-1-1 through SG-ELWD-1-21; and

Phase 2 Lots: per the Official Plat of Elmwood Subdivision, Phase 2, said Lots being:

SG-ELWD-2-22 through SG-ELWD-2-31; and

Phase 3 Lots: per the Official Plat of Elmwood Subdivision, Phase 3, said Lots being:

SG-ELWD-3-32 through SG-ELWD-3-41; and

Phase 4 Lots: per the Official Plat of Elmwood Subdivision, Phase 4, said Lots being:

SG-ELWD-4-42 through SG-ELWD-3-51; and

Phase 5A Lots: per the Official Plat of Elmwood Subdivision, Phase 5A, said Lot being:

SG-ELWD-5A-53; and

Phase 5B Lots: per the Official Plat of Elmwood Subdivision, Phase 5B, said Lot being:

SG-ELWD-5B-54 through SG-ELWD-5B-55; and

Phase 5C Lots: per the Official Plat of Elmwood Subdivision, Phase 5C, said Lot being:

SG-ELWD-5C-56 through SG-ELWD-5B-57; and

Phase 5D Lots: per the Official Plat of Elmwood Subdivision, Phase 5D, said Lot being:

SG-ELWD-5D-58 through SG-ELWD-5D-59; and

All future Phases, including the Lots thereof, as annexed or expanded to Elmwood Subdivision, in accordance with the provisions of the Declaration thereof, as cited.

The Declarant, hereby amends and modifies the Declaration, as follows:

The language of Article 3, Section 3.4 (v) shall be deleted, which Section language currently reads, as follows:

(v) Air conditioning, Heating Equipment, Soft Water Systems, Etc. Such equipment, if placed on the exterior area of the Home, shall be screened from street-view. Heat pumps/AC units shall not be placed on rooftops. Rooftop or through-the-window "swamp coolers" shall not be allowed.

Solar Panels Solar Panels or Solar Panel Arrays (group of connected solar panels) of any type shall only be allowed provided the ACC approves an Owner's submission of an ACC Review Request which must detail Owner's Solar Panel Proposal, according to provisions of Article 3 of the

Declaration. Approval or Denial in one given, previous instance by the ACC/Board shall not constitute a precedent for any other Request submission for Solar Panels. Approval or Denial by the Board/ACC shall be on a case-by-case Basis.

All Solar Panel Proposals shall be in full compliance with all ACC-published Solar Panel Guidelines, as well as 'current input' to their evaluation. Such Guidelines, as of the date hereof include, but shall not be limited to, the following:

Solar Panel Guidelines (as of the date of Declarant's execution of this Amendment):

1. All roof mounted solar (photovoltaic) systems must be constructed of non-reflective materials, including racking materials and panel frames: and
2. All solar panels must be mounted parallel to roof surface, which surface is part of a pitched roof system. No additional pitch will be permitted: and
3. All racking or mounting material must be underneath solar array (grouping of panels). No racking may extend beyond area of array. Also, all conduit, wiring, and roof penetrations must be located beneath the solar array. No conduit shall be exposed on the rooftop(s): and
4. No panels may extend beyond roof area, either hanging over eaves or a ridge line of a Home's roof: and
5. All solar panel systems must adhere to National Electrical Code and Local Code and inspection, as applicable: and
6. Panels and all associated pieces and portions, thereof, must be maintained and repaired so as NOT to look old and dilapidated: and
7. Owner's proposed location of the Panels or Array shall be subject to the ACC's consideration of near or adjoining Lots. Panels will not be approved by the ACC for mounting on the front-facing portions of the Home's roof: and
8. As a general rule, rear-yard, ground installation of solar panels will not be permitted; however, the ACC, on the condition of case-by-case review, may permit such installation PROVIDED such solar panel system shall be located in the Home's rear-yard which is to be totally enclosed by an ACC-approved block wall(s) with approved screened wrought-iron gate(s) with locking mechanism(s). Furthermore, any ACC-approved ground installation shall not be visible from the public streets of the Subdivision.

**FINAL NOTE REGARDING THESE GUIDELINES:** The foregoing Guidelines are not part of the Declaration; these Guidelines are a published work of the ACC and are here-presented for 'informational purposes only.' These Guidelines may be amended or added to by the ACC and/or Board for any reason or purpose, at any time, and without amendment to the Declaration and without need for provide notice to Members, except as such may be a part of a periodic Board Meeting, and without need of any Member Vote thereof.

Said language, as above-quoted, shall be replaced in Section 3.4(v) with language which shall read, as follows:

(v) Air conditioning, Heating Equipment, Solar Panels, Etc. Heat pumps/AC units shall not be placed on rooftops. Rooftop or through-the-window "swamp coolers" shall not be allowed.

Solar Panels Solar Panels or Solar Panel Arrays (group of connected solar panels) of any type shall only be allowed provided the ACC approves an Owner's submission of an ACC Review Request which must detail Owner's Solar Panel Proposal, according to provisions of Article 3 of the Declaration. Approval or Denial in one given, previous instance by the ACC/Board shall not constitute a precedent for any other Request submission for Solar Panels. Approval or Denial by the Board/ACC shall be on a case-by-case Basis.

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4. No panels may extend beyond roof area, either hanging over eaves or a ridge-line of a Home's roof: and
5. All solar panel systems must adhere to National Electrical Code and Local Code and inspection, as applicable: and
6. Panels and all associated pieces and portions, thereof, must be maintained and repaired so as NOT to look old and dilapidated: and
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for any reason or purpose, at any time, and without amendment to the Declaration and without need for provide notice to Members, except as such may be a part of a periodic Board Meeting, and without need of any Member Vote thereof.

IN WITNESS WHEREOF, Declarant does hereafter execute this Second Amendment as of the 17 day of June, 2020.

**DECLARANT: FACTION, LLC**

By: Troy Ence, Manager

**ACKNOWLEDGMENT**

STATE OF UTAH )

COUNTY OF WASHINGTON )

On this 17 day of June, 2020, before me personally appeared Troy Ence, whose identity is personally known to me, and who, being by me duly sworn did say that he is the Manager of FACTION, LLC, a Utah limited liability company, and that the foregoing document was signed by him on behalf of said company by proper authority and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

Corinne Schmalz  
Notary Public, Residing in Washington County, UT

