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**Preamble**

These Amended Covenants and Restrictions are adopted on the 16<sup>th</sup> day of October 1999, by the Members of the Shadybrook Property Owners’ Association. These Restrictions shall apply to all lots in Shadybrook Subdivision, according to the map and plat thereof recorded in the Map and Plat Records of Cherokee County, Texas and shall replace the Amended Covenants and Restrictions on and for Shadybrook Subdivision which were previously adopted for the various Units of the Subdivision.

**Recitals**

WHEREAS the Developer in order to create and carry out a uniform plan for the improvement, development and use of Shadybrook Subdivision (including, but not limited to, preserving the natural beauty of the property; minimizing the erection of poorly designed, unproportioned or unsuitable structures; encouraging harmonious architectural schemes; and advancing the highest and best development of the property for the benefit of the present and future owners of lots in said subdivision) caused to be filed certain Covenants and Restrictions on and for Shadybrook Subdivision;

WHEREAS the general plan set forth in those Restrictions has benefited the Property in general, the parcel and lots that constitutes the Property, and each successive owner of an interest in the Property.

WHEREAS the general plan set forth in these Amended Covenants and Restrictions of Shadybrook Subdivision will benefit the Property in general, the parcels and lots that constitute the Property, and each successive owner of an interest in the Property; and

WHEREAS the Members of the Shadybrook Property Owners Association, Inc. desire to amend and replace the Amended Covenants and Restrictions of Shadybrook Subdivision recorded in the Map and Plat Records of Cherokee County, Texas;

NOW, THEREFORE, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, the Members of the Shadybrook Property Owners Association, Inc. (hereafter known as the Association) do hereby adopt and establish the following Amended Covenants, conditions and restrictions which shall be applicable to all property within the Shadybrook Subdivision, and that all the Property shall be held, sold, and conveyed subject to the following easements, Restrictions, Covenants, and conditions.

**Application**

These Restrictions shall apply to all lots in the Shadybrook Subdivision. They replace the Covenants and Restrictions on and for the Shadybrook Subdivision which were previously adopted, and which apply to the respective Units of the Subdivision, being Unit 1 (Lots 1-323), Unit 1E (Lots 1-93), Unit 2 (Lots 94-760), Unit 3 (Lots 1-318), Unit 4 (Lots 1-412), Unit 5, (Lots 1-182), Unit 6 (Lots 1-560).

**ARTICLE ONE - DEFINITIONS**

**Association**

“Association” means the Shadybrook Property Owners’ Association, Inc.

**Board**

“Board” means the Board of Directors of the Association.

**Common Area**

“Common area” means the entire Property except the Lots, subject to all easements and rights described in this Declaration.

**Developer**

“Developer” means Double Diamond Enterprises, Inc.

**Lot**

“Lot” means each of the plots of land lots in Shadybrook Subdivision, according the map and plat thereof recorded in the Map and Plat Records of Cherokee County, Texas. The term does not include the Common Properties unless context clearly indicates otherwise.

**Owner**

“Owner” means each and every person or entity who is a record owner of a fee or undivided fee interest in any Lot, or who is a purchaser pursuant to a contact for deed; however, the word “Owner” shall not include any person or entity who holds a bona fide lien or interest in a Lot merely as security for the performance of an obligation.

**ARTICLE TWO – ARCHITECTURAL CONTROL**

**Section 1. Architectural Control Committee**

The Architectural Control Committee (ACC) shall be composed of three or more individuals. The members of the ACC and the chair shall be appointed by the Board. The ACC shall function as a representative of the Association with respect to certain matters a set forth in these covenants. A majority of the ACC may designate a representative to act for it. In the event of the death or resignation of any member of the ACC, the Board will appoint a successor. Final construction or building plans and specifications shall be submitted to the ACC for approval or disapproval of such plans and specifications. If the Committee should fail to either approve or disapprove plans and specifications within fifteen (15) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to substantial completion of such construction, then Committee approval shall be presumed provided it does not violate the recorded Covenants and Restrictions.

**Section 2. Approval of Plans and Specifications**

The ACC must review and approve in writing all the following projects on the Property:

1. Construction of any building, fence, wall, or other structure.
2. Any exterior addition, change, or alteration in any building, fence, wall, or other structure.

### **Section 3. Application for Approval**

To obtain approval to do any of the work described in the preceding section, an Owner must submit an application to the ACC showing the plans and specifications for the proposed work. Such plans and specifications shall detail the nature, shape, height, materials, colors in keeping with the rest of the community, and location of the proposed work. No building, structure, fence(s), or improvement of any nature shall be erected, placed, or altered on any lot until the construction plans and specifications, and a plot plan showing the location thereof, have been submitted to and approved by the ACC. Plans for on-site building of residencies must be submitted at least 30 days prior to building to the ACC for approval. A portable toilet is to be provided during on-site construction of new dwellings. Any building, structure or improvement commended upon any lot shall be completed, as to exterior finish and appearance, within six (6) months from the commencement date.

### **Section 4. Standard for Review**

The ACC shall review applications for proposed work in order to (1) ensure conformity of the proposal with these Covenants, conditions, and Restrictions and (2) ensure harmony of external design in relation to surrounding structures and topography. An application can be rejected for providing insufficient information. The Committee shall have broad, discretionary authority to interpret and apply these standards. In rejecting an application, the Committee should detail the reasons for rejection and suggest how the applicant could remedy the deficiencies.

### **Section 5. Failure of Committee to Act**

If the ACC fails to either approve or reject an application for proposed work within fifteen days after submission, then Committee approval shall not be required, and the applicant shall be deemed to have fully complied with this Article (See Section 1 above)

## **ARTICLE THREE – USE RESTRICTIONS & ARCHITECTURAL STANDARDS**

### **Section 1. Residential Lots**

All lots listed in Unit 1 and 1E, Shadybrook Subdivision, shall be designated as “Residential Lots” and all residential dwellings must be constructed “on-site.” Each dwelling constructed on any lot listed in Unit 1 and 1E shall contain a minimum of nine hundred (900) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. No temporary structure, mobile homes, Modular homes, or prefabricated dwellings shall be permitted on any lot listed in Unit 1 or 1E. Factory-made recreational vehicles may be used on any lot on a temporary basis to camp in Unit 1 and 1E while building on-site residential dwelling or clearing a lot for building only and must be approved the ACC. All Association rule will be

enforced when camping. No camping by tent or similar form of shelter or by homemade or converted vehicles or buses shall be permitted on any lot listed in Unit 1 or 1E, except that the Board may approve an exception in advance if desired.

## **Section 2. Combination Lots**

All lots listed in Unit 2, 4, and 6, Shadybrook Subdivision, shall be designated as "Combination Lots". Each dwelling constructed on any lot listed in Unit 2, 4, and 6 shall contain a minimum of four hundred fifty (450) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Mobile homes (excluding, however, wrecked mobile homes or mobile homes in a dilapidated condition), prefabricated dwellings and modular homes may be brought upon or placed on any lot listed in Units 2, 4, or 6, provided that prior to occupancy, any mobile home or dwelling shall be connected to the necessary utilities. Proper skirting and underpinning shall be in place within 60 days. Factory-made recreational vehicles may be used on any lot on a temporary basis to camp on the lots listed in Unit 2, 4, or 6 when clearing the lot or building residential dwelling only and must be approved by the Board. All Association rules will be enforced when camping. No camping by tent or similar form of shelter or by homemade or converted vehicles or buses shall be permitted on any lot listed in Unit 2, 4, or 6, except that the Board may approve an exception in advance if desired.

## **Section 3. Combination/Camper Lots**

All lots listed in Unit 3 and 5, Shadybrook Subdivision, shall be designated "Combination/Camper Lots". Only camping in approved factory-made recreational vehicles and factory-made tents will be permitted. Self-contained recreational vehicle may be used on a permanent basis to camp on the lots listed in Unit 3 and 5 subject, however, to prior approval of the Board, as well as, the camping rules and regulations of the association and may be used on a permanent basis only after having installed a septic system on the lot. No camping by homemade or converted vehicle or bus shall be permitted on any lot listed in Unit 3 and 5.

## **Section 4. Residential Use Only**

Subject to the preceding three sections, all Lots shall be used for single-family residential purposes only. All lots in the Subdivision shall be used, known, and described as single-family residential lots except for those lots used to provide recreational facilities or utility services to owners of lots in the Subdivision and such lots that are designated as Drill Sites. No lot may be subdivided, except, common areas can be subdivided at the discretion of the Board. No duplexes, apartments or other multi-family dwellings, structures or uses shall be permitted on any lot. No commercial activity or use shall be conducted on or from any lot within the Subdivision, which results in additional traffic coming into the Subdivision from the outside. Only garage sales and fund-raising events approved by the board will be allowed. Sale of lots in the subdivision shall not be considered to be commercial activity.



## **Section 5. Type of Buildings Permitted**

No building shall be erected, altered, or permitted on any Lot other than one detached single-family dwelling not to exceed two stories in height. All dwellings must be properly connected to all necessary utilities, including a septic system, prior to occupancy. Septic tank installation and sanitary plumbing shall conform to all requirements of the Texas State Department of Health, the Upper Neches River Authorities and Cherokee County, Texas. All pier and beam structures, mobile homes, prefab dwellings and modular homes, in all units of the subdivision, must have proper skirting in place within sixty (60) days of placing and/or building on the lot. No building, dwelling or permanent structures of any type shall be erected on any lot within ten feet (10') (20' in Unit 1 and 1E) of the front property line, within five feet (5') of the side property lines or within ten feet (10') of the rear property line. Only decorative fences no higher than three feet allowed in Unit 1 and 1E on front property line. A plan for any fence must be submitted to and approved by the ACC. All construction must be of new materials, except for stone, brick, inside structural material, or other materials used for antique decorative effect if such use is approved in writing by the Board. No dwellings, garages, storage buildings or any improvements containing asbestos exterior siding, tarpaper exterior siding, tarpaper exterior roofing, corrugated metal siding or corrugated metal roofing {with the exception of porches, carports, and patios of new material} shall be permitted on any lot within the Subdivision. No bus or mobile home shall be used for storage purposes on any lot within the Subdivision. No camping supplies or equipment (other than approved recreational vehicles) shall be left on any lot when camping is not taking place unless stored within storage building which has been previously approved by the Board. Culverts for driveways on lots shall be mandatory where the Board deems necessary and shall be a minimum of twelve (12') feet in length. Each culvert will be a minimum of eight (8") in diameter, galvanized corrugated steel with an eighteen (18) gauge minimum. Other types of culverts will be permitted if they are commonly used the Texas State Department of Highways. Each culvert shall have a minimum cover of dirt or rock of four (4") inches.

## **Section 6. Easements**

Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Map. No utility company, water district, political subdivision, or other authorized entity using these easements shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, flowers, or to other property of the Owner situated in the easement. There is reserved for the Association and its assigns, a ten foot (10') wide utility and drainage easement along the front and rear lot lines, and a five (5') wide utility and drainage easement along the side lot lines of each and every lot within the subdivision, except where adjoining lots are owned by the same owner. Within these easements, no permanent structure shall be placed or permitted to remain which may damage or interfere with installation and maintenance of utilities or which may change, obstruct, or retard the flow of water through drainage channels in such easements. The easement area of each lot shall be maintained by the owner of the lot, except for those improvements for which public authority or utility company assumes responsibility.

## **Section 7. Noxious or Offensive Activities Prohibited**

No noxious or offensive activity shall be conducted on or engaged in which is or may become a nuisance to other lot owners within the Subdivision.

## **Section 8. Signs**

No signs of any type shall be allowed on any Lot except one temporary sign of not more than five square feet advertising the property for sale or rent. Temporary signs must be approved by the ACC and located inside the property lines of the lot offered for sale or rent. All other commercial signs are prohibited.

## **Section 9. Oil Development and Mining Prohibited**

The following prohibitions shall apply to all property in the Subdivision except for those designated as Drill Sites:

1. No oil well drilling, development, or refining, and no mineral quarrying or mining operations of any kind shall be permitted on any Lot.
2. No oil well, tank, tunnel, mineral excavation, or shaft shall be permitted on any Lot.
3. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

## **Section 10. Health and Safety Hazards, Rubbish, Trash and Garbage**

Owners of abandoned mobile homes, structural homes and out buildings on any lots will be given a thirty (30) day notification that the POA Architectural Control Committee has deemed the property uninhabitable and will be removed at the expense of the property owner.

The above notice shall give by:

- A.) certified mail return receipt requested to the last known property owner at the last known address shown on the books of the POA;
- B.) hand deliver to the property owner; or
- C.) by posting same on door of the primary building located upon the subject property. Notice shall be deemed completed upon mailing under A.) above; upon delivery under B.) above; and/or, upon under C.) above.



The property owner can request (in writing) a review hearing to be held before the POA Architectural Committee to reconsider their decision; however, notice of said request must be received in the office of the POA during normal business hours not later than 30<sup>th</sup> day after the above notice is given to the landowner as described above. The POA Architectural Committee is not required to grant a hearing for reconsideration; but if they do so, then it shall occur within thirty (30) days of receipt of the notice of the property owners request for reconsideration. In any event, if a hearing is requested the prior decision of the POA Architectural Committee shall stand, unless specifically overturned, altered, or modified by the POA Architectural Committee within forty-five (45) days of receipt of the notice of the property owners request for reconsideration.

The property owner will be billed for all reasonable expenses incurred in the POA's implementing of the decision of the POA Architectural Committee and the POA shall be entitled to collect the same as provided for in these Covenants and/or as otherwise provided for by the law.

Littering and trash on any lots, roadways, and Common Properties, is strictly prohibited. A fine may be assessed by the Board for anyone not in compliance. All household trash must be deposited in the designated dumpsters. Only property owners in good standing who have paid all fees and assessments may use the dumpsters. Dumpsters can only be used for trash generated within the Subdivision. A fine may be assessed of \$25 to \$200 by the Board for each violation. No outside toilet, cesspool or privy shall be erected or maintained on any lot in the Subdivision. The dumping of holding tanks on any development property is expressly prohibited. A fine of \$200 will be assessed on anyone dumping of holding tanks on any development property. Each lot shall be kept and maintained in a neat and orderly condition. No trash or refuse shall be allowed to accumulate and remain upon any lot within the Subdivision. If an Owner of any Lot fails to maintain the premises in a neat and orderly manner, the ACC shall have the right, through its agents and employees, to enter the Lot in order to repair, maintain and restore the Lot, including landscaping, and the exterior of any buildings and other improvements located on the Lot, all at the expense of the Owner. In addition to any such expenses, the owner shall be charged a fee in the amount determined by the Board. Such expenses and fees shall be secured by the lien upon each lot owned by the owner. No trees may be cut for commercial purposes or to be sold as timber. Clear-cutting of lots is prohibited. Any exception must be approved in writing by the Board. Cutting of trees on common Properties is not permitted without written permission from the Board. No soil shall be removed from any lot for any commercial use. Clotheslines must be behind the residence. Metal barrels used for burning must be kept behind a residence, off easements, and off the Common Properties. Ground fires will be permitted only on property owners lots at the owner's own risk unless otherwise prohibited by mandate of county or state during certain seasons. Youth under the age of 18 must be supervised by a person 18 years or older when using fireworks. Fireworks are only allowed in designated areas of the subdivision as determined by the board. Unsupervised children using fireworks and using fireworks in areas not authorized by the Board within the Subdivision is prohibited. No discharge of firearms or hunting of any kind will be allowed within Shadybrook subdivision with any kind of firearm, BB gun, or Bow-n-Arrow. This does not prohibit the use of firearms for personal protection.

## **Section 11. Vehicles**

Commercial or home conversion school type buses, semi-trailers over eighteen feet in length, aircraft, construction equipment, inoperable, damage, or wrecked vehicles, and construction materials shall not be parked or stored in the subdivision.

Neither the common properties, streets, nor the lots, within the subdivision, shall be used to park or store (temporarily or permanently) **trucks in excess of one ton**. No truck or bus (except a passenger van for personal use) or trailer shall be left parked in the street in front of any Lot, except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity.

No trespassing or defacing property or common areas of the POA by driving 2/4-wheel motorized vehicles that causes said property damage. Violations will be addressed by the ACC, with a letter stating the violation. The property owners will have 10 days to come into compliance. After 10 days the matter will be turned over to the courts and a fine will be assessed.

## **Section 12. Perimeter Fence**

The perimeter fence of the Development shall remain the property of the Association. The removal of any portion of this fence (for driveways or any reason) is prohibited.

## **Section 13. Water Supply**

The drilling of any water well within the Subdivision is prohibited, save and except those drilled by the Association for the Subdivision's central water supply and distribution system.

## **Section 14. Animals**

- A.** No animals, livestock, swine, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept (provided the same are not raised, bred, or kept for any commercial purpose and are kept under control at all times). The number of household pets is limited to no more than three dogs and three cats maximum. No pet shall be kept within the Subdivision which creates a public nuisance and any such pet determined by the Board to be such a nuisance shall be removed there from within five (5) days of the date owner thereof is notified in writing of that decision. All dogs and/or cats must be vaccinated.
- B.** All pets must be restrained at all times in a humane manner. An animal shall be deemed to be restrained when it is:

- (1) Confined on the premises of the owner within a fence or enclosure; (Owner means any person owning, keeping, harboring, who has possession or control or has the responsibility to control an animal.)
- (2) Fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner;
- (3) Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large;
- (4) On or within a vehicle being driven or parked if owner is present to control the animal from jumping or falling out.
- (5) At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.

Pets will not be allowed in any common areas or at any amenities unless leashed and controlled by its owner. They are not allowed inside the fenced pool areas unless a trained assistance dog for the handicapped.

An animal running astray within the Shadybrook boundaries are hereby declared a public nuisance. Astray or stray means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner. Any pets found unattended and loose in the community will be considered an abandoned stray and may be delivered to the local animal shelter at the owner's expense.

An animal which is diseased and endangers thereby the health of a person or another animal may be delivered to the local animal shelter at the owner's expense. In the case of emergencies such as an animal that is injured to a degree presenting little or no likelihood of recovery or rabies, the animal may be destroyed.

No person who owns or keeps an animal shall allow the animal to engage in fierce or dangerous conduct. An animal engages in fierce or dangerous conduct when it threatens to attack or terrorizes a person on public or private property or in public place, or as behaved in such a manner that the person who keeps the animal knows, or should reasonably know, that the animal is possessed of tendencies to attack or bite persons.

Any pets that are considered to be a threat to the community will be reviewed by the Board for possible removal or fines up to \$100 a day. Review procedures will be established by the Board.

Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete and absolute control. If a guard dog is to be maintained in a building or adjoining fenced area, then the Fire Department must be notified. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal; at least one (1) warning sign shall be conspicuously posted.

**Section 15. Fences, Walls, Hedges, and Utility Meters**

No permanent wall utility meter, etc., shall be placed, or permitted to remain on any lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lot, except for decorative subdivision entry fences. Fence, hedges, etc., will be permitted either six inches inside the residence line or on the property line. All plans fences must be approved by the ACC. (See Article Three, Section 5)

**Section 16. Prohibited Activities**

No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot.

**ARTICLE FOUR - ASSOCIATION**

**Section 1. Creation**

The Association shall be a nonprofit corporation of which each Owner of a Lot shall automatically be a member. Association membership shall be appurtenant to ownership of a Lot. Ownership of a Lot is the sale criterion for membership in the Association.

**Section 2. Transfer of Membership**

Each and every owner of any and all lots within the Subdivision shall become a member of the Subdivision Association, which the Association shall manage, maintain, and care for the common facilities of the Subdivision. Each and every owner covenant and promised to pay, to the Association when due, any and all dues and maintenance fees. Use of the common facilities, as well as all other amenities, within the Subdivision shall be limited to the lot owners who are members in good standing and their families and guests. Property owners must at all times, use caution to not damage the facilities of the Development. Property owners and guests will be held responsible for any Development property destroyed or defaced. Each and every owner of any and all lots within the Subdivision, covenant and agree that the Association and its successors and assigns shall have alien upon that owner’s lot(s) in the Subdivision, inferior only to the lien “for taxes and any duly recorded mortgage, limited to securing the payment of such dues and maintenance fees, regular and special assessments, late charges, interest (at the highest permitted lawful rate), any other financial obligation owed to the Association by that owner, and any reasonable court costs and attorneys’ fees incurred in connection with the collection of the same.

Maintenance fees must be paid in full, or arrangement for payment approved by the Board before association membership transferable to the grantee of a conveyance of a Lot can be made. Membership shall not be assigned, pledged, or transferred in any other way. Any attempt to make way. Any attempt to make a prohibited transfer shall be void.

No sale, transfer, lease, or disposition of any lot in the Subdivision shall be consummated unless and until the name and address of the purchaser or transferee has been properly recorded on the books and records of the Association.

### **Section 3. Management of Association**

The Association shall be incorporated a nonprofit corporation. The Association shall be managed by the Board pursuant to the procedures set forth in the Association's Articles of Incorporation and Bylaws, subject to this Declaration.

### **Section 4. Membership Voting, Elections, and Meetings**

Voting rights, elections, and meetings shall be conducted in accordance with the Articles of Incorporation and Bylaws of the Association.

### **Section 5. Duties and Powers of the Board**

Through the Board, the Association shall have the following powers and duties:

- (a) To adopt rules and regulations to implement this Declaration and the Association's Bylaws.
- (b) To enforce this Declaration, the Bylaws, its rules, and regulations.
- (c) To elect officers of the Board and select members of the ACC when that power devolves to the Board.
- (d) To delegate its powers to committees, officers, or employees.
- (e) To prepare to balance sheet and operating income statement for the Association and deliver a report to the membership at its Annual Meeting.
- (f) To establish and collect regular assessments to defray expenses attributable to the Association's duties, to be levied against each Owner, including Developer.
- (g) To establish and collect special assessments for capital improvements or other purposes.
- (h) To file liens against unit owners because of nonpayment of assessments duly levied and to foreclose on those liens.



- (i) To receive complaints regarding violations of this Declaration, the Bylaws, or the rules and regulations.
- (j) To give reasonable notice to all Owners of all annual meetings of the membership and all discipline hearings.
- (k) To manage and maintain all the Common Area in a state of high quality and in good repair.
- (l) To pay taxes and assessments that is or could become a lien on the Common Area.
- (m) To pay the costs of any liability insurance and fire insurance on the Common Area and any liability insurance for members of the Board.

The Board of Directors of the Association shall have the power and authority to: (i) Set policy applicable to the common facilities and areas within the subdivision; (ii) permit the usage of lots for parking areas and uses normally associated with the customary development of the subdivision and uses thereon mandated, directed or encouraged by government authorities having jurisdiction over the subdivision; (iii) permit the usage of interior lots owned by the POA for streets; and iv) exercise such other rights granted it under the Articles of Incorporation, Bylaws of the Association, or the laws of the State of Texas.

**Section 6. Rules and Regulations**

The Association may adopt rules and regulations. The owner and leaser of each lot, and any persons residing on said lot, shall be responsible for complying with all requirements imposed by these Covenants and the Bylaws and other rules and regulations of the Association, including payment of all assessments and other charges owed to the Association. Owners must submit the names of any persons renting and/or leasing property within the Subdivision from them, within thirty days after such persons begin to rent or lease such property. Renters will be given a renter’s pass upon approval by the Board.

**ARTICLE FIVE – GENERAL PROVISIONS**

**Section 1. Limitations**

Violation of or failure to comply with the Covenants and Restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument that may be then existing on any lot in the Subdivision. Invalidation of anyone of these covenants and restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflicts with



mandatory provisions of any ordinance or regulation promulgated by the Upper Neches River Authority or other similar governmental agency then such governmental requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages, or other similar security agreements) purporting to convey, transfer or assign any interest in any lot within the Subdivision shall contain conveyance, transfer, or assignment to all the Covenants and Restrictions set forth herein.

## **Section 2. Enforcement**

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, condition, and reservations imposed by the Declaration. Failure to enforce any Covenant or Restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation unless otherwise specified in this document. All waivers must be in writing and signed by the party to be bound.

## **Section 3. Severability**

Invalidation of any one of the Covenants or Restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

## **Section 4. Covenants Running with the Land**

These easements, Restrictions, Covenants, and conditions are for the purpose of protecting the value and desirability of the Property, and they shall be for the benefit of the Property, each Lot, and each Lot Owner. Consequently, they shall constitute Covenants running with the land and shall be binding on all Developers and on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. Each person or entity, by the acceptance of title to any lot within the Subdivision, shall thereby agree and covenant to abide by and perform the covenants, these Covenants and Restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any lot in the Subdivision or by the Association, or by the Developer against any person or persons violating or attempting to violate any Covenant or Restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available.

## **Section 5. Duration and Amendment**

Neither any amendment nor any termination shall be effective until recorded in the deed records of Cherokee County, Texas, and all requisite governmental approvals, if any, have been obtained.

The following procedures shall govern amendments to these Covenants:

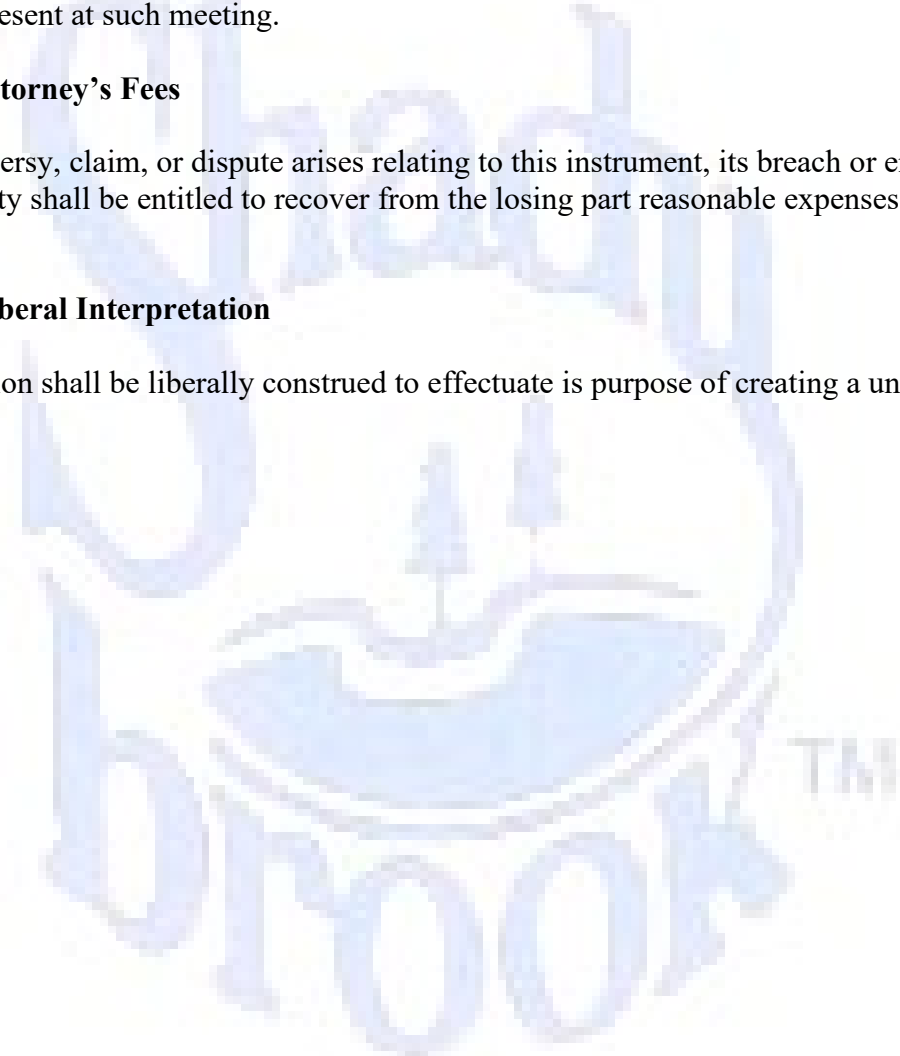
- A. Written notice of the time and date of the meeting at which the amendment(s) are to be considered, shall be provided to each member at the last known address. A general description of the nature of the proposed amendment(s) shall be included with the notice. This notice shall be sent no sooner than 60 days or less than 30 days in advance of the meeting at which the amendment(s) are to be considered.
- B. A proposed amendment shall be adopted on approval of a majority of the members present at such meeting.

**Section 6. Attorney's Fees**

If any controversy, claim, or dispute arises relating to this instrument, its breach or enforcement, the prevailing party shall be entitled to recover from the losing part reasonable expenses, attorney's fees, and cost.

**Section 7. Liberal Interpretation**

This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the property.



This Declaration, with its revisions, was duly adopted on the 23<sup>rd</sup> day of June 2018 at the Annual Meeting of the Members of the Shadybrook Property Owners' Association, Inc.

**CERTIFICATION**

I certify that I am the President of the Association and that the foregoing Covenants constitute the Covenants of the Association.

\_\_\_\_\_  
David Smith, President  
Shadybrook Property Owner's Association, Inc.

STATE OF TEXAS                    {  
COUNTY OF CHEROKEE         {

Before me, the undersigned authority, on this day personally appeared **David Smith**, subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Notary Public of Texas

\_\_\_\_\_  
Notary Printed Name

\_\_\_\_\_  
My Commission expires

After Recording:  
Return to:                   Shadybrook POA  
                                  175 Caroline Lane  
                                  Bullard, TX 75757