

Recorded at the request of:
The Vintage Homeowners Association at Bloomington

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RUSSELL SHIRTS * WASHINGTON CO RECORDER
2005 SEP 29 14:43 PM FEE \$28.00 BY SW
FOR: VINTAGE HOA @ BLOOMINGTON

**Record against the Property
described in Exhibit A**

After Recording mail to:
Jenkins Jensen & Bayles, LLP
Attn: Bruce C. Jenkins
1240 East 100 South, Suite. 9
St. George, UT 84790

**AMENDMENT TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE VINTAGE
A PLANNED UNIT DEVELOPMENT
BLOOMINGTON, UTAH
(Rental Restrictions)**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions of The Vintage (rental restrictions) (this "Amendment"), amends the following: (i) Declaration of Covenants, Conditions, and Restrictions of The Vintage, dated October 30, 1986 and recorded October 31, 1987, as Entry No. 303999, in Book 430, beginning at Page 495 (the "Declaration"); (ii) any and all supplements or amendments to the Declaration prior to the date of this Amendment, whether or not such were recorded in the records of the Washington County Recorder. In the event of a conflict between the Declaration, the Bylaws or the Rules & Regulations for the Vintage Homeowners Association at Bloomington and the Amendment, this Amendment shall control.

This Amendment is undertaken pursuant to Article XIII of the Declaration, and was adopted pursuant to the written consents of not less than Eighty percent (80 %) of the Lot Owners. Further, holders of first mortgage liens were sent a copy of the Amendment together with notice advising them of the place, date and time of the meeting of the Lot Owners held to consider this Amendment (August 13, 2005, 3:00 p.m. at the Vintage Clubhouse, 875 Rio Virgin No. 101, St. George, UT 84790).

Even though a meeting of the Membership was held to consider this Amendment, of which holders of first mortgage liens were notified, the adoption of this Amendment is governed by and evidenced by the written consents of the Members.

Owners in the Vintage Homeowners Association at Bloomington (the "Association") were also given notice of the requirements under Utah Code Ann. Section 16-6a-707 for taking action without meetings. A true and correct copy of such notice is attached hereto and incorporated herein as Exhibit "B".

This Amendment shall take effect upon the date it is recorded in the records of the Washington County Recorder (the "Amendment Date").

As used herein, "Board" shall mean and refer to the Board of Directors of the Association.

The following amends and wholly replaces Article XI, Section 12 of the Declaration.

Article XI, Section 12 . Lease Restrictions. Notwithstanding anything to the contrary contained in the Declaration, the leasing of any residence/Lot (hereinafter collectively referred to as a "Lot") within the Vintage Properties shall be governed by this Article XI, Section 12, as amended hereby.

(a) PURPOSE AND PROHIBITION. IN ORDER TO INCREASE THE FUTURE AVAILABILITY OF FINANCING FOR THE PURCHASE/SALE OF LOTS WITHIN THE VINTAGE, TO PROMOTE THE AVAILABILITY OF INSURANCE FOR THE ASSOCIATION AND ITS MEMBERS AT REASONABLE RATES, TO ATTEMPT TO MAXIMIZE THE PROPERTY VALUES WITHIN THE VINTAGE PROPERTIES, AND TO PROMOTE A SENSE OF COMMUNITY BY AND THROUGH OWNER-OCCUPANTS, FROM AND AFTER THE AMENDMENT DATE NO OWNER SHALL BE ABLE TO LEASE HIS LOT OR ANY PORTION THEREOF, EXCEPT AS SPECIFICALLY PROVIDED BELOW. THE INTENT OF THIS AMENDMENT IS TO PROVIDE THAT AT SOME TIME AFTER THE AMENDMENT DATE THERE WILL ULTIMATELY BE NO LOTS THAT ARE NOT OWNER-OCCUPIED AND THAT ALL LEASING OF LOTS WITHIN THE VINTAGE PLANNED UNIT DEVELOPMENT WILL ULTIMATELY BE ELIMINATED; SUBJECT TO THE RIGHT OF AN OWNER TO OBTAIN A HARDSHIP EXEMPTION.

(b) APPLICATION FOR GRANDFATHERING. Within forty-five (45) calendar days of the Amendment Date, each Owner who was leasing his Lot on the Amendment Date and who desires to continue to lease his Lot, must complete and execute the form attached hereto as Exhibit C (the "Notice of Intent to Continue Leasing"). An Owner who fails to timely deliver the Notice of Intent to Continue Leasing to the Board shall lose the right to lease the Owner's Lot, which loss of the right to lease shall be effective as of the time the current lessees of the Owner's Lot vacate the premises.

(c) GRANDFATHERING. Any Owner who timely returns to the Board a complete and accurate Notice of Intent to Continue Leasing, shall have the right to continue to Lease such Lot until the earlier of the following:

- (i) The Lot becomes Owner-Occupied (as defined below),
- (ii) The Lot is sold, or
- (iii) The Owner is in violation of this Article XI, Section 12, including without limitation the failure to advise the Board of the execution of a lease and to provide a copy thereof to the Board.

For purposes hereof, a Lot shall be deemed "Owner-Occupied" if

- (i) The Owner or any member of his immediate or extended family occupies the Lot for a period of seven days or more in any ten consecutive day period;
- (ii) The Owner is a corporation, limited partnership, limited liability company, general partnership, trust or other legal entity and such entity designates in writing to the Board the primary resident of the Lot which must be an officer, manager, member or partner of the legal entity. Such entities may not utilize the Lot in any form of fractionalized use.
- (d) EXTENSION OF GRANDFATHERING DURING VACANCY. An Owner in compliance with this Amendment may continue to lease the owner's Lot even if the lessees change or the Lot remains unoccupied in between lease terms, provided the Lot does not become Owner-Occupied at any time after the Amendment Date. An Owner must comply with all the covenants and conditions of this Amendment to be able to Lease the owner's Lot
- (e) HEIRS AND GRANDFATHERING. Lot which is being Leased by an Owner at the time of the Owner's death and is passed to the heirs of such Owner by intestacy or testamentary instrument, may continue to be Leased until the heirs sell the Lot or it becomes Owner-Occupied. Subject to subsection (f) below, the purchaser shall not have the right to lease the lot.
- (f) SALE OF GRANDFATHERED LOT. Notwithstanding anything to the contrary herein, if an Owner sells his Lot at a time when a Lease is in effect with respect to that Lot, the Lease shall continue to its termination. However, the purchaser of the Lot shall not have the right to lease the Lot after such purchaser takes title to the Lot, except for the remainder of the term of the Lease in place at the time of sale.
- (g) TERMS OF LEASE. Any agreement for the leasing or rental of a Lot (both above and hereafter referred to as a "Lease") shall be in writing and shall provide that the terms of such Lease shall be subject in all respects to the provisions of the Declaration, this Amendment, the Articles, the Bylaws, the Rules & Regulations and any other governing documents of the Association (collectively the "Governing Documents"). Any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the Lease. Owners with the right to Lease their lots shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents and the Lease. Failure of an Owner to cure the lessee's default within fifteen (15) calendar days after receiving written notice from the Board of such default, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings in unlawful detainer and/or eviction, on behalf of such Owner against his lessee.

(h) **NOTIFICATION OF LEASE.** Immediately upon entering into a Lease, an Owner shall furnish the Board with (i) a copy of such Lease (with the lease amount redacted, if desired by the lessee or Owner), (ii) the telephone number of the lessee, and (iii) any change in the address or telephone number of the Lot Owner. As soon as practicable after receiving such notification that an Owner has entered into a Lease, the Owners shall, and the Board may, cause copies of the Governing Documents to be delivered to such lessee. (The Governing Documents shall be binding on the lessee whether or not the Owner or the Board delivers the Governing Documents to the lessee.) Failure by an Owner or the Board to provide the information in this subparagraph (h) shall be deemed a default hereunder by such Owner. In the event of a default under this subparagraph (h), the Board may, after affording the Owner an opportunity to be heard, levy a fine against such Owner in an amount determined by the Board, but in no event less than One Hundred Dollars (\$100.00). The Owner shall have fifteen (15) calendar days after receiving written notice of default from the Board to either pay the fine or request a hearing before the Board. If the fine is not timely paid or a hearing requested or the Board finds the Owner in violation after a hearing, the Board shall be entitled to exercise all of its rights hereunder and under the law, including without limitation to (i) levy continuing fines against any Owner for each day the violation continues, each day being considered a separate violation, (ii) collect such fines, costs and attorney's fees incurred in connection therewith, and (iii) deem the Owner in violation and terminate all further rights of the Owner to Lease the Lot.

(i) **NO TRANSIENT LODGING.** No Lot shall be Leased for hotel or transient purposes. A Lease for a period of less than six (6) months shall be deemed to be for transient purposes. No Owner or lessee shall lease less than his entire Lot. Any Lease of a Lot shall be in writing and shall include an acknowledgment by the lessee of the applicability of all the Governing Documents. Copies of all Leases shall be provided to the Board for its records, as set forth above.

(j) **HARDSHIP** If, at any time after the Amendment Date, an Owner believes that a hardship is being endured (the "Hardship") pursuant to which such Owner needs to Lease the Owner's Lot, the Owner may apply to the Board for a Hardship exemption from the leasing restrictions contained in this Amendment. If an Owner decides to apply for a Hardship exemption, such Owner must take the following steps:

(i) **Application.** The Owner must submit a request in writing to the Board requesting a Hardship exemption setting forth in detail the reasons why such Owner should be entitled to same.

(ii) **Approved Exemptions.** The following four Hardship exemptions shall be deemed expressly approved for up to a maximum of one (1) year, with the opportunity to obtain not more than two (2) one year extensions upon application to and approval from the Board, provided the Owner provides proof of engagement in one or more of the following for each application or extension:

1. Religious service;
2. Government and military service;
3. Civic/Humanitarian service; and
4. The Owner is a mortgagee who has acquired the Lot through foreclosure or otherwise.

(iii) **Conditional Exemptions.** In addition to the foregoing exemptions set forth in subsection (ii) above, if based on the information supplied to the Board by the Owner, the Board finds, in its sole discretion, that a reasonable Hardship exists, the Board may grant a waiver of lease restrictions up to a maximum of one (1) year.

(iv) **Hardship Factors.** The types of Hardships that the Board may consider under subsection (iii) above, shall include, but not be limited to, Hardships for a death in the family, transfers for jobs, or one or more significant medical treatments for an Owner or an immediate family member of the Owner (such as a spouse or child) or for a person who resided with the Owner in the Owner's unit, that requires the Owner to be away from the Owner's unit during the medical treatment. The Board, in its sole discretions, may determine if a Hardship exemption shall be granted.

(v) **Application for Extension of Exemptions.** In the event an Owner has been granted a Hardship exemption, such Owner must reapply within thirty (30) days of the expiration of such Hardship exemption, if such Owner wishes to request an extension thereof. The Board, in its sole discretion, may decide if an extension for such Hardship exemption shall be granted. However, in no event shall the Hardship be extended beyond a period of three (3) years.

(vi) **Limit of Exemptions.** In no event shall more than two (2) Hardship exemptions, not including extensions, be given to an Owner.

(vii) **Leasing During Exemption.** Any Lease entered into under this Subsection (j) shall be in writing and for a period of no less than ninety (90) days, and no more than one (1) year. The Lease will be subject to and must comply with all other requirements of this Amendment.

(k) **ASSOCIATION RIGHT TO LEASE.** The Board shall have the right to lease any Association owned Lots or any Lot which the Association has possession of, pursuant to any court order or foreclosure (judicial or non-judicial), and said Lots shall not be subject to this Amendment.

(l) **COMPLIANCE WITH GOVERNING DOCUMENTS AND DEFAULT.** Any Owner who shall lease his Lot shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer and/or Eviction against the

lessee in violation of the Governing Documents within fifteen (15) calendar days after receipt of written demand from the Board to take action against the lessee(s) in violation, shall entitle the Association, through the Board, to take any and all action available in law or equity, including without limitation the institution of proceedings in Unlawful Detainer/Eviction, on behalf of such Owner against his lessee. Additionally, if any owner leases his Lot in violation of this Amendment, then after providing the Owner with the appropriate notice and hearing as required by law, the Owner fails to institute proceedings in Unlawful Detainer/Eviction against the lessee to have him removed from the Owner's Lot, then the Association may, but shall not have an obligation to, institute proceedings in Unlawful Detainer/Eviction on behalf of the Owner against the lessee to have the lessee evicted from the property. Any expenses incurred by the Association in enforcing this Amendment, including attorneys fees and costs of suit, shall be repaid to the Association by such Owner. Failure of such Owner to make such repayment within fifteen (15) days after receipt of written demand thereof, shall entitle the Board (i) to levy and add to the assessment against such Owner and his Lot, all expenses incurred by the Association and to foreclose the assessment lien according to Utah law; or (ii) to file suit to collect the amounts due and owing, or both.

(m) **POWER OF ATTORNEY.** In the event an Owner fails to enforce the terms of that Owner's Lease and the covenants and conditions of this Amendment, such Owner hereby appoints the Association as its limited attorney in fact for the purposes of filing and prosecuting any proceeding in Unlawful Detainer/Eviction that the Association elects to commence pursuant to the terms of this Amendment.

(n) **NOTICE.** Notices required hereunder shall be deemed given three (3) days after placing the same in the U.S. First Class Mail, postage pre-paid, to the last address of the Owner known to the Association. An Owner shall be obligated to notify the Association in writing of the Owners correct address and any change in address.

IN WITNESS WHEREOF, on the 29 day of SEPTEMBER, 2005, the President of the Association hereby represents that attached to this Amendment are the signed consents of not less than Eighty (80%) of all the Owners.

THE VINTAGE HOMEOWNERS ASSOCIATION AT
BLOOMINGTON, a
Utah nonprofit corporation

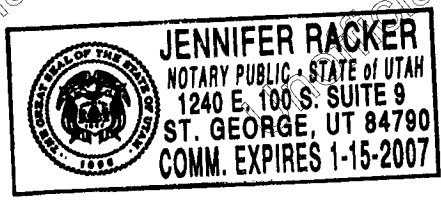

By: Hooper Knowlton
Its: President

Witnessed:


Merilee Lee
Secretary, The Vintage Homeowners Association at Bloomington

STATE OF UTAH,)
: ss.
County of Washington.)

On the 29th day of September, 2005, personally appeared before me Hooper Knowlton, who being by me duly sworn, did say that he is the President of the Vintage Homeowners Association, the authorized individual empowered to sign this Amendment and that the Amendment was signed on behalf of said Association and said person acknowledged to me that said Association authorized the execution of same.



Jennifer Racker
Notary Public

EXHIBIT A

This Amendment to the Declaration of Covenants, Conditions and Restrictions of The Vintage, A Planned Unit Development, effects the following real property, all located in Washington County, State of Utah:

Phase I

All of ~~lots 110 through 122~~ of "The Vintage" Phase I [Amended], according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase II

All of ~~lots 102 through 107~~ of "The Vintage" Phase II, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase III

All of ~~lots 100 through 111~~ of "The Vintage" Phase III, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase IV

All of ~~lots 202 through 209~~ of "The Vintage" Phase VI, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase V

All of ~~lots 126 through 129~~ of "The Vintage" Phase V, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase VI

All of ~~lots 200 through 210, 220 through 224, and 226~~ of "The Vintage" Phase VI, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase VII

All of ~~lots 212 through 216, 225, 227 through 249, and 251~~ of "The Vintage" Phase VII, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase VIII

All of ~~lots 217 through 221, 252, 255, 257, 259, 261 and 263~~ of "The Vintage" Phase VIII Amended, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase IX

All of ~~lots 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, and 280~~ of "The Vintage" Phase IX, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

Phase X

All of ~~lots 222 through 227, 203, 207, 209, 202, 204, 206, 208, 200 and 208~~ of "The Vintage" Phase X, according to the official plat thereof, on file in the Office of the Recorder, Washington County, State of Utah.

EXHIBIT B

**LEGAL NOTICE
FOR TAKING WRITTEN CONSENTS
WITHOUT A MEETING TO APPROVE THAT CERTAIN
AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF THE VINTAGE,
A PLANNED UNIT DEVELOPMENT, BLOOMINGTON, UTAH.
(Leasing Restrictions)**

The Declaration of Covenants, Conditions and Restrictions for The Vintage (the "Declaration") requires the taking of written consents of at least eighty percent (80%) of all Lot Owners to amend the Declaration and to adopt the Amendment to the Declaration of Covenants, Conditions and Restrictions of The Vintage relating to restrictions on leasing (the "Amendment").

Utah Code Ann. Section 16-6a-707 allows for the taking of written consents without a meeting of the Lot Owners, provided the following are met:

1. The consents are signed by the number of members required to take the action if a meeting were held; in this instance eighty percent (80%) of the Lot Owners.
2. Unless 100% of the members sign a written consent, eighty (80%) of the written consents must be obtained within a sixty (60) day period commencing on the date the first consent is executed.
3. The effective date of the Amendment will be the date the Amendment is recorded in the records of the Washington County Recorder.
4. Consents once given may only be revoked in a writing signed by the Lot Owner(s) that references the Amendment, that states the member's prior written consent is revoked; and that is received by the Association prior to the expiration of the sixty (60) day period.

You are hereby given notice that if at least eighty (80%) percent of the Lot Owners consent in writing to the Amendment within the sixty (60) day period, that the Vintage Homeowners Association at Bloomington, through its Board, will cause the Amendment to be recorded in the records of the Washington County Recorder thirteen (13) business days after notifying the members that the amendment has passed.

A copy of the Amendment and Consent form are attached hereto and you have hereby been given notice that the enclosed Amendment has been provided to you more than ten (10) days in advance of the proposed effective date of the Amendment.

A copy of this Legal Notice has been attached as Exhibit B to the Amendment.

EXHIBIT C

NOTICE OF INTENT TO CONTINUE LEASING
(The Vintage)

TO ALL OWNERS:

DATE: _____

That certain Amendment to the Declaration of Covenants, Conditions, and Restrictions of The Vintage (rental restrictions) (the "Amendment") has been adopted by the membership of The Vintage Homeowners Association at Bloomington. Among other matters the Amendment prohibits leasing of Dwelling Units, subject to hardship exemptions and grandfathering Dwelling Units leased at the time the Amendment was approved and recorded in the records of the Washington County Recorder.

For those Owners seeking grandfathered status for the Dwelling Unit(s) owned by them which were leased at the time the Amendment was adopted you must return this completed form within forty-five (45) from the date of this NOTICE in the attached self-addressed envelope to the Vintage Homeowners Association at Bloomington, 875 Rio Virgin Dr #101, St. George UT 84770. If you fail to do so your right to lease your Dwelling Unit(s) will lapse and terminate.

REGISTRATION INFORMATION

1. Names of Lessees

- a. _____
- b. _____
- c. _____
- d. _____

2. Telephone numbers of Lessee

- a. Home: _____
- b. Work: _____
- c. Mobile: _____

3. Telephone numbers of Owner

- a. Home: _____
- b. Work: _____
- c. Mobile: _____

4. Current address of Owner

5. Copy of Lease: a true and correct copy of the lease, with the rate deleted at the owners discretion, must be attached. Each time there is a new Lessee, Owner must provide a new copy of the Lease.

I/We the Owners Lot(s) _____ hereby verify that the above information is true, accurate and complete.

DATED this _____ day of _____, 2005.

(Sign) _____

(Sign) _____

(Print) _____

(Print) _____