

COPY

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Mountain Shadows Development Company, LLC  
3837 N. Holl Road  
Eagle, Idaho 83616

**FOR RECORDING INFORMATION**

**DECLARATION OF AMENDMENT TO REVISED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN SHADOWS SUBDIVISION No. 1, 2, 3 and 4 (future)**

This Declaration of Amendment ("Amendment") is made effective the 28<sup>th</sup> day of October, 2019, by Mountain Shadows Development Company, LLC, an Idaho limited liability company ("MSD").

**RECITALS**

**A.** WHEREAS, MSD is the developer of Mountain Shadows Subdivision Phases 1, 2 and 3 located in Boise County, Idaho and currently owns the real property intended to be "Phase 4" of Mountain Shadows Subdivision described on Exhibit A attached hereto.

**B.** WHEREAS, Mountain Shadows Subdivision is governed by Mountain Shadows Homeowners' Association, Inc., an Idaho non-profit corporation ("Association").

**C.** WHEREAS, revised Declaration of Covenants, Conditions and Restrictions for Mountain Shadows Subdivision No. 1, 2, 3 and 4 (future) were recorded on August 31, 2015 as instrument number 248283 in the records of Boise County, Idaho ("Revised Declarations") and are applicable to Mountain Shadows Subdivision, subject to certain retained rights by MSD with respect to Phase 4.

**D.** WHEREAS, pursuant to Section 6.2 of Article VI of the Revised Declarations, MSD or its successors or assigns retained the unilateral right to amend the Revised Declarations as applicable to Phase 4.

**E.** WHEREAS, MSD has determined that it is appropriate to amend the Revised Declarations as applicable to Phase 4 to expand the permitted uses and to clarify rights and responsibilities with respect to the connection of Phase 4 to the Public Water System for Mountain Shadows Subdivision.

**NOW, THEREFORE**, pursuant to Section 6.2 of Article VI of the Revised Declarations, MSD hereby amends the Revised Declarations as applicable to Phase 4 as follows:

**AGREEMENT**

**1. Additional Permitted Use of Phase 4.** The Revised Declarations are amended to expand the permitted use of Phase 4 to include construction and operation of a retreat center, and related uses, including, but not limited to, a main building with up to one hundred (100) separate units, individual cabins, permanent residences and related additional buildings and improvements (collectively, the "Retreat Center"). Design and construction of the Retreat Center shall not be subject to Articles II or VII of the Revised Declarations. If the parcels of land comprising Phase 4 as of the date of this Amendment are subdivided into separate lots by platting, lot line adjustment or otherwise and sold to individual owners, improvements on such parcels shall be subject to Articles II and VII of the Revised Declarations. All improvements on Phase 4 shall comply with applicable building codes, zoning and environmental regulations.

**2. Development of Phase 4.** The owner of Phase 4 and its successors and assigns shall (a) be solely responsible for the design and construction of Phase 4, including extension of roads and utilities through Phase 4, (b)

have the discretion to dedicate roads as private and exclusive to Phase 4 and (c) designate any common areas and easements within Phase 4.

**3. Public Water System.** The owner of Phase 4 and its successors and assigns shall be permitted to connect to the Public Water System for Phase 4 pursuant to Article III of the Revised Declarations. All costs to upgrade the Public Water System to accommodate water usage for Phase 4 shall be paid by owner of Phase 4 and its successors and assigns. The fee assessed by the Association to Phase 4 for water consumption shall be commensurate with the fee charges for other property owners connected to the Public Water System. The remaining nine (9) connections available for the MSD Public Water System shall remain dedicated to Phase 4, unless and until released by the owner of Phase 4.

**4. Member of Association.** Upon connection of Phase 4 to the Public Water System, the portions connected shall become part of the Association. Unless and until the parcels of land comprising Phase 4 as of the date of this Amendment are subdivided into separate lots by platting, lot line adjustment or otherwise, such parcels shall be considered a single "Lot" for purposes of the Revised Declarations, including voting, regular assessments, etc. In the event that separate legal parcels are established within Phase 4 after the date of this Amendment and are connected to the Public Water System, each separate legal parcel shall be considered a "Lot" for purposes of the Revised Declarations.

**5. Interpretation.** In the event of any inconsistency between this Amendment and the Revised Declarations, the provisions of this Amendment shall control.

**6. Assignment of Rights.** All retained rights of MSD under the Revised Declaration and this Amendment shall be deemed assigned to any single transferee of the land comprising Phase 4 as of the date of this Amendment, including the right to further amend the Revised Declarations as they apply to Phase 4.

IN WITNESS WHEREOF, this Amendment has been executed effective as of the date first above written.

Mountain Shadows Development Company, LLC

By: *Michael J. Coughlin*  
Michael J. Coughlin, Member  
October 28, 2019

STATE OF IDAHO            )  
  ) ss.  
County of Ada             )

On this 28<sup>th</sup> day of October, 2019, before me, the undersigned Notary Public in and for said State, personally appeared Michael J. Coughlin, known or identified to me to be a Member of Mountain Shadows Development Company, LLC, the Idaho limited liability company that executed the foregoing instrument and the person whose name is subscribed to the within instrument, and acknowledged to me that said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

*Ashley B. Kirkman*  
NOTARY PUBLIC for Idaho  
Residing at: *Boise*, Idaho  
Commission Expires: *11/13/19*



**EXHIBIT A**  
**Legal Description of Phase 4**

**Parcel A**

**NW ¼ of the NW ¼ of Section 16, Township 9 North, Range 4 East, Boise Meridian, Boise County, Idaho, comprising approximately 39.58 acres.**

**Parcel B**

*See Attached Legal Description*

**BOUNDARY DESCRIPTION  
FOR  
MOUNTAIN SHADOWS SUBDIVISION**

A parcel located in the S ½ of the NW ¼ and the SW¼ of Section 16, Township 9 North, Range 4 East, Boise Meridian, Boise County, Idaho, more particularly described as follows:

BEGINNING at a brass cap monument marking the southwesterly corner of said SW ¼, from which a 5/8 inch diameter iron pin marking the southeasterly corner of said SW¼ bears N 89°45'16" E a distance of 2649.55 feet;

Thence N 0°45'55" E along the westerly boundary of said SW ¼ a distance of 2630.22 feet to a brass cap monument marking the northwesterly corner of said SW¼;

Thence N 0°46'39" E along the westerly boundary of said S ½ of the NW¼ a distance of 1314.58 feet to a brass cap monument marking the northwesterly corner of said S ½ of the NW¼;

Thence N 89°41'13" E along the northerly boundary of said S ½ of the NW¼ a distance of 949.50 feet to a 5/8 inch diameter iron pin marking the westerly corner of *MOUNTAIN SHADOWS SUBDIVISION No. 2* on file in the office of the Recorder, Boise County, Idaho;

Thence along the southwesterly boundary of said *MOUNTAIN SHADOWS SUBDIVISION No. 2* the following described courses:

Thence leaving said northerly boundary S 26°35'48" E a distance of 1352.12 feet to a 5/8 inch diameter iron pin;

Thence S 49°35'48" E a distance of 175.00 feet to a 5/8 inch diameter iron pin marking the southerly corner of said *MOUNTAIN SHADOWS SUBDIVISION No. 2*, said corner being the northwesterly corner of *MOUNTAIN SHADOWS SUBDIVISION No. 1* on file in said office of the Recorder;

Thence along the southwesterly boundary of said *MOUNTAIN SHADOWS SUBDIVISION No. 1* the following described courses:

Thence S 6°38'53" E a distance of 418.24 feet to a 5/8 inch diameter iron pin; Thence S

35°16'30" E a distance of 394.27 feet to a 5/8 inch diameter iron pin;

Thence S 10°05'26" E a distance of 509.93 feet to a 5/8 inch diameter iron pin on the northerly boundary of *CRAIG CREEK SUBDIVISION* on file in said office of the Recorder;

Thence along the northerly and westerly boundaries of said *CRAIG CREEK SUBDIVISION* the following described courses:

Thence N 87°33'22" W a distance of 942.34 feet to a 5/8 inch diameter iron pin;

Thence N 52°31'14" W a distance of 70.42 feet to a 5/8 inch diameter iron pin;

Thence N 89°40'44" W a distance of 77.35 feet to a 5/8 inch diameter iron pin;

Thence S 70°50'48" W a distance of 74.10 feet to a 5/8 inch diameter iron pin;

Thence S 0°43'21" W a distance of 127.62 feet to a 5/8 inch diameter iron pin;

Thence S 12°06'40" E a distance of 82.34 feet to a 5/8 inch diameter iron pin;

Thence S 6°53'53" E along the extended westerly boundary of said *CRAIG CREEK SUBDIVISION* a distance of 1071.56 feet to a 5/8 inch diameter iron pin on the northwesterly right-of-way of the Banks-Lowman Road;

Thence along said northwesterly right-of-way the following described courses:

Thence leaving said extended westerly boundary and along said northwesterly right-of-way a distance of 61.50 feet along the arc of a 1205.92 foot radius non-tangent curve left, said curve having a radius point bearing S 36°06'12" E, a central angle of 2°55'19" and a long chord bearing S 52°26'09" W a distance of 61.49 feet to a point;

Thence N 39°01'31" W a distance of 10.00 feet to a point;

Thence a distance of 106.10 feet along the arc of a 1215.92 foot radius non-tangent curve left, said curve having a radius point bearing S 39°01'31" E, a central angle of 4°59'59" and a long chord bearing S 48°28'29" W a distance of 106.07 feet to a point;

Thence N 44°01'30" W a distance of 50.00 feet to a point;

Thence a distance of 146.11 feet along the arc of a 1265.92 foot radius non-tangent curve left, said curve having a radius point bearing S 44°01'30" E, a central angle of 6°36'47" and a long chord bearing S 42°40'06" W a distance of 146.03 feet to a point on the southerly boundary of said SW¼;

Thence S 89°45'16" W along said southerly boundary a distance of 838.02 feet to the POINT OF BEGINNING.

This parcel contains 124.57 acres and is subject to any easements existing or in use.

Prepared by: Glenn K. Bennett, PLS  
Civil Survey Consultants, Incorporated  
December 6, 2017

