

Amended and Restated Declaration of  
Covenants, Conditions and Restrictions  
for Cherrywood Estates

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**AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
CHERRYWOOD ESTATES**

The Undersigned declare that the real property hereafter described shall be held, sold, conveyed, and developed subject to the following covenants, conditions, and restrictions. Provisions contained in the original declaration recorded February 4, 2005, recorded under Benton County Auditor's No. 2005-003828, and supplemental declaration recorded September 11, 2007 under Benton County Auditor's No. 2007-030215, are hereby replaced and superseded in their entirety by this amended and restated declaration.

**I  
DEFINITIONS**

A. **"Association"** shall mean and refer to Cherrywood Estates Homeowner's Association, a Washington non-profit corporation.

B. **"Owner"** shall mean and refer to the record owner, or owners, of a fee simple title to any lot or portion of said plat, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

C. **"Declaration"** shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cherrywood Estates.

**II  
PROPERTY SUBJECT TO THIS DECLARATION**

The real property subject to this declaration is located in Richland, Benton County, Washington. The property is commonly known as Cherrywood Estates, and is legally described as follows:

The NE 1/4 of Section 27, Township 9 North, Range 28 East, W.M.  
City of Richland, Benton County, Washington  
127981000001000

**III  
HOMEOWNERS ASSOCIATION**

A. **Creation of A Homeowner's Association.** Cherrywood Estates Homeowners Association, a Washington non-profit corporation has been created to manage, administer and enforce the covenants, conditions and restrictions herein created.

B. **Automatic Membership.** Each Owner of property within Cherrywood Estates shall automatically become a member in the Association at such time as an ownership interest is acquired.

C. **Operation and Management of Association.** The Board of Directors for Cherrywood Estates Homeowners' Association shall operate pursuant to the authority created by its Articles of Incorporation and

duly adopted Bylaws, and pursuant to this declaration. In addition to those powers specifically set forth the Board of Directors shall have all powers set forth in RCW 64.38.020 (Homeowners' Associations – Association Powers)

**D. Assessments.** By accepting ownership of property within Cherrywood Estates, each Owner agrees to pay such assessments as may be levied by the Association for the purpose of maintaining or improving the common area or other property which may be deeded to the Association from time to time.. Such assessments shall be determined annually by the Board of Directors, in the manner provided in the Bylaws, and assessed equally among all effected lot Owners, The Board of Directors may establish late charges which shall be set forth in the Association's Bylaws. An unpaid assessment shall automatically create a lien against the lot assessed and shall bear interest at 12% per annum until paid/ The Association shall have the power to bring suit against any Owner for unpaid assessments and to enforce the lien created herein by foreclosure in the same manner provided for mortgages on real property. If it should be necessary to employ an attorney to assist in the collection of any unpaid assessments, or to enforce the lien against any lot by virtue said unpaid assessment, the Association shall be entitled to recover its reasonable attorney's fees and other associated costs of collection, including those which may be incurred on appeal and in any proceedings in bankruptcy.

#### IV ARCHITECTURAL CONTROL

**A. Creation of Architectural Control Committee.** The Board of Directors for Cherrywood Estates Homeowners Association will establish an Architectural Control Committee (ACC), which shall be responsible for reviewing the plans for all proposed new construction, additions, or modifications. The ACC shall be responsible to ascertain that the plans and subsequent construction within Cherrywood Estates meets the minimum building requirements set forth in this Declaration. The committee shall allow reasonable latitude and flexibility in the design of homes to be built on lots in Cherrywood Estates. The ACC shall be responsible to the Board of Directors and may be appointed, removed and replaced by the Board of Directors at any regular meeting.

**B. Composition of Architectural Control Committee.** The Architectural Control Committee shall consist of three (3) individuals. The Association's Board of Directors shall annually determine the membership on said committee. The members may be removed and replaced by the Board at any time by majority vote.

**C. Submission of Plans.** Any property owner seeking to construct a new home or other appurtenant structure, or to add to or modify any portion of the exterior of an existing home or structure, shall submit the plans to the ACC for review. A modification of the home exterior will include decks, patios, and similar alterations. Construction of new structures includes fencing, equipment and material housing, gazebos, and other similar construction.

**D. Submittals Required for ACC Approval.** The following items shall be submitted to the ACC for approval. The ACC may request additional material to be submitted at its discretion.

a. Site plan showing the lot boundary and the proposed location of all improvements, including all structures, driveways, sidewalks, fences, outdoor lighting, etc. All easements and proposed setbacks shall be shown.

b. Floor plans designating the square feet per floor and total finished square feet (exclusive of garages, covered patios, storage areas, etc.)

c. Elevations depicting front, rear and side elevations including proposed material finish descriptions,

d. Specifications describing the materials and finishes proposed for exterior construction.

e. Colors proposed for all exterior finishes, including paint color, brick, stone, rock and stucco finishes, Exterior colors shall be variations of earth tone colors,

f. Landscaping plan,

**E. Approval of Plans.** No construction, change, modification, or alteration for which plans are to be submitted, shall commence until the plans and specifications as above described have been submitted to and approved in writing by the ACC. Approval will be based upon factors set forth below. In the event the ACC fails to approve or disapprove such design and location plan within forty-five (45) days after such plans and specifications have been submitted to it, approval will not be required and full compliance with this section of the Declaration will be deemed to have occurred provided that such plans and specifications are in full compliance with the general building restrictions herein stated, and applicable state and municipal building codes or regulations.

**F. Liability of Committee and Homeowner for Compliance.** In spite of the foregoing provisions, the ACC shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of the ACC shall have any liability, responsibility, or obligation, whatsoever, for any decision or lack thereof, in the carrying out of duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the ACC and each of its members on account of any activities of the ACC relating to such owner's property or buildings to be constructed on his or her property.

**G. Plan Review Fees.** The ACC may employ engineers, architects and other professionals to review plans and take other actions as designated by the ACC and, therefore, the ACC may charge a fee to review plans in an amount not to exceed \$150 for each plan review.

**H. Guidelines.** The ACC shall have the authority to adopt and amend written guidelines to be applied in its review of plans and specifications in order to further the intents and purposed of this Declaration and any other covenants or restrictions covering the Properties. If such guidelines are adopted, they shall be available to all homeowners upon request. The ACC shall be afforded flexibility in applying said guidelines where community interest or safety may warrant departure.

**I. Nonwaiver.** Approval by the ACC of any plans, drawings or specifications shall not be a waiver of the right to withhold approval of any similar plan, drawing, specification or matter submitted for approval.

## V

### BUILDING AND USE RESTRICTIONS

**A. Single Family Residence.** All lots within Cherrywood Estates shall be known as residential lots and shall be used for single-family residential purposes only. Construction shall be restricted to single-family houses and related improvements. Group homes or similar non-family living arrangements shall not be permitted. Construction shall commence by December 1, 2006 or within one year of lot purchase. Construction commenced on any lot shall be substantially completed for occupancy, including exterior finish details, and front yard landscaping within (8) months unless an extension is approved by the ACC.

**B. Dwelling Size Restrictions.** All homes shall have a minimum of 1800 square feet of finished space exclusive of basement, garages, storage rooms, covered or partially enclosed patios, etc. All multi-level

homes shall have a minimum of 2000 Square feet and no less than 1200 square feet on the main level. Front and street side elevations for exterior walls shall be limited to 16 feet of flat expanse (flat areas with no comers or finish detail) on the house, and 26 feet on the garage side.

**C. Detached Storage Facilities.** Detached storage facilities shall have the same look and style as the approved house. The construction, finish, color, size, and location shall have ACC approval.

**D. Temporary Structures.** No trailer, tent, shack, shed, bam, garage, or other outbuilding shall at any time be used as a residence, temporarily or permanently.

**E. Commercial Uses Prohibited.** No business or commercial uses or activities shall be permitted or conducted in Cherrywood Estates. Nor shall any residential lot be used for a trade, business, or regularly recurring religious activity, day care, or school. Music lessons for individual students are permitted.

**F. Excavation, Dust Control, Clean up.** Excavated material shall not be placed on adjacent lots without prior written permission of the owner. Lot owners or those with lots under contract shall provide dust control according to the guidelines of the Benton County Clean Air Authority, Builders shall provide daily clean up of areas surrounding the construction site utilizing temporary fencing if needed to keep trash from blowing off site.

**G. Chemical Toilets.** Each construction site shall have a portable chemical toilet as approved by the City Building Department, unless an exception is granted by the ACC. These temporary facilities shall be placed a way from occupied homes in an inconspicuous location approved by the ACC.

**H. Exterior Finishes and Colors.** All homes shall be required to use stucco, stone, or brick. The front elevation shall have a stucco finish or have a minimum of 35% of the area, excluding windows and doors, in stone or brick. The finishes will be required to wrap around the comers at least 20 inches. Siding must be pre-finished hardboard siding such as by James Hardie, Louisiana Pacific, or Masonite. It shall be installed horizontally with no more than a 7 1/2" reveal. Soffit, fascia, and corners shall be of a similar pre-finished material.

**I. Roofing.** Roofs shall be 30-year architectural asphalt shingle or better. Other roof types will be considered on quality, and compatibility with the surrounding homes. White or other light colors will not be approved. Roof pitches shall be 6/12 or steeper, and not mixed on the same elevation view. Varied rooflines and heights are required. Roof vents should be placed in the least visible locations possible.

**J. Garages.** A minimum of a three-car garage shall be required (unless a variance is allowed for lot shape or other condition) to minimize the amount of on street parking. Interiors of garages shall be sheet-rocked, taped, and painted.

**K. Landscaping.** Underground irrigation and landscaping shall be required for the front yard prior to occupancy and shall continue to be maintained after occupancy or when the owner is not living in the home. Sod is required in the front yard. Backyards shall have finished irrigation and landscaping within 180 days of occupancy. Sod, hydro-seed, or seed is acceptable in the backyard. Grading, retaining walls, and sprinkler adjustment shall be provided in such a manner as to prevent irrigation water or storm water erosion, excessive moisture, or sediment problems on adjacent lots, sidewalks, or street property.

**L. Lights.** No spotlights, floodlights or other bright lighting shall be placed or directed in such a manner as to unduly infringe upon any other lot.

**M. Outdoor Equipment and Wiring.** Heat pumps, propane tanks, hot tub and pool equipment, chimney flues and any other outdoor equipment shall be enclosed, shielded or concealed from view. Satellite dishes (and wiring for such) shall be installed in an inconspicuous manner.

**N. Fences.** Masonry, wrought iron, vinyl, and cedar are generally acceptable fencing materials. Fencing shall be no more than 6 feet in height and be built in accordance with widely accepted fence building practices in our area. Fence boards alternating from one side to the other are not acceptable. Fences must be approved for location and design by the ACC and by the City of Richland for a building permit.

**O. Vehicles.** Mobile homes, campers, trailers, boats, recreational vehicles, and commercial vehicles shall not be permitted on the street or driveway in front of the house. Cars or standard sized trucks used for both business and personal use are permitted unless any sign age is offensive in language, color, or design. Any parking on the street is discouraged and limited to 72 hours and in no circumstances are any inoperable, junker, or project vehicles allowed to be stored on any lot outside the garage, or on the street in front of any lot. Vehicles in violation of these provisions may be towed away at the owner's expense.

**P. Signage.** No signs are permitted except one standard sized "For Sale" or "For Rent" sign. One sign of a non-offensive political nature promoting a candidate may be displayed for a short period of time before an election and may not exceed 5 square feet.

**Q. Animals.** Legal domestic pets (no livestock, poultry, or other farm animals) are permitted, provided they are not obnoxious, dangerous, or a nuisance to the neighborhood in any way. Upon request by any member of the association, the association has the right to determine if any animal fits into the above categories and shall be evicted. In such a case, the owner will be given a written notice with 45-days to correct the problem or make living arrangements for the animal outside of the subdivision.

**R. Garbage, Storage areas.** Lots shall be maintained free of garbage, trash, junk, or other unsightly items. Garbage cans, equipment, tools, woodpiles, and clotheslines shall be screened so as to hide them from public view.

**S. Leasing.** The owners of lots in Cherrywood Estates shall have the right to lease out their dwelling provided that any such lease is in writing and specifically made subject to the covenants, conditions, and restrictions stated in this Declaration and any other rules and conditions published by the Association. Before occupancy owners shall notify the Association with a new tenant's name, number of occupants, phone number, and written lease dates. A forwarding address of the owner shall also be provided along with emergency contact phones. Landscaping must be kept in good condition whether occupied or not.

## VI COMPLIANCE AND DISPUTE RESOLUTION

If any claims or disputes arise out of this Declaration, the parties hereby agree to submit the same to binding arbitration at a location to be mutually agreed upon in Benton County, Washington. In the event the parties are unable to agree upon an arbitrator, or a location, the selections will be made by the presiding judge for the Benton County Superior Court at the request of either party. RCW 7.04A and the mandatory arbitration rules of the Benton County Superior Court shall be binding as to the procedure. The prevailing party in any such dispute shall be entitled to recover reasonable attorney's fees. This provision shall not apply to actions which may be necessary to enforce collection of assessments, or where an emergency situation would warrant immediate judicial relief.



VII  
MISCELLANEOUS AND GENERAL PROVISIONS

**A. Amendments.** By written consent of seventy-five percent (75%) of all lot owners, after notice and opportunity to be heard at a meeting duly called, this Declaration may be modified or amended by recording of a written instrument indicating the terms of any amendment or modification.

**B. Covenants, Conditions and Restrictions Shall Run With the Land.** All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding on and insure the benefit of the owners of the properties in Cherrywood Estates, their heirs, successors, and assigns, and all parties claiming by, through, or under them shall be taken to hold, agree, and covenant with such owners, their successors in title, and with each other, to confirm to and observe all of the terms and conditions contained in this Declaration.

**C. Binding Effect.** All present and future Owners or occupants of Lots shall be subject to and shall comply with the provisions of this Declaration, and the Bylaws and rules and regulations of the Association, as they may be amended from time to time, are accepted and ratified by such Owners of occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at the time any interest or estate in such Lot as though such provisions were recited and stipulated at length in each and every deed and conveyance or lease thereof.

**D. Enforcement by Court Action.** The Association, the ACC, or any Owner shall have the right to enforce, by arbitration pursuant to Article VI, or where allowed therein, by proceedings at law or in equity, all restrictions, conditions, and covenants, now or hereafter imposed by the provisions of this Declaration. Should the Association or any Owner employ counsel to enforce any of the foregoing covenants, conditions, or restrictions, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the Owner found to be in violation of said conditions, covenant or restriction, or found to be delinquent in the payment of said lien or charge.

**E. Condition Precedent to Action.** Prior to taking action to enforce written notice shall be given to the offending lot owner. Such notice shall specify the nature of the offense and shall also specify the action necessary to cure. Such notice shall also provide a reasonable opportunity to cure which, except in the case of an emergency, shall not be less than 10 days.

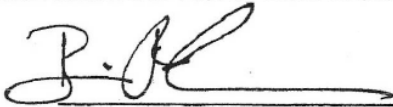
**F. Expense of Action.** The expenses of any corrective action or enforcement of this declaration, if not paid by the offending owner within 30 days after written notice and billing shall constitute a lien upon said offending Owner's lot, enforceable as other liens herein.

**G. Cost of Attorneys Fees.** In the event of legal action, the prevailing party shall be entitled to recover actual costs and attorney fees. For the purpose of this declaration "legal action": shall include arbitration, law suit, trial, appeals, bankruptcy proceedings and any action, negotiated, demands, counseling or otherwise where the prevailing party has hired an attorney. It is the intent of the provision to reimburse the prevailing party for all reasonable attorney fees and actual costs incurred in defending or enforcing the provisions of this Declaration, or the owner's rights hereunder.

**H. Failure to Enforce.** No delay or omission on the part of the Owners of other lots in exercising any rights, power, or remedy provided in this Declaration shall be construed as a waiver or acquiescence in any breach of the covenants, conditions, or restriction set forth in the Declaration.



The undersigned certifies that this AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CHERRYWOOD ESTATES was duly approved on the 28 day of MAY, 2010, by written consent of 75% or more of the total membership at a meeting duly called for this purpose.



Association Secretary

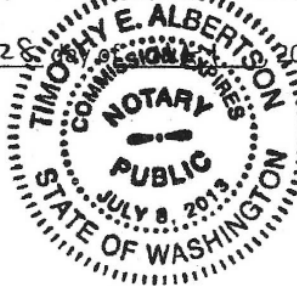


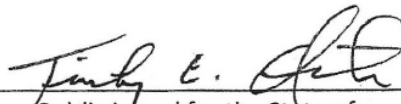
Association President

STATE OF WASHINGTON )  
 ) ss.  
County of Benton )

I certify that I know or have satisfactory evidence that BRIAN RAMDWAR is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Secretary of CHERRYWOOD ESTATES to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED this 28 day of MAY, 2010.





Notary Public in and for the State of

Washington, residing at Richmond

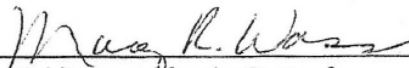
My Commission Expires: 7/8/2013

STATE OF WASHINGTON )  
 ) ss.  
County of Benton )

I certify that I know or have satisfactory evidence that TIM ALBERTSON is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of CHERRYWOOD ESTATES to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED this 28<sup>th</sup> day of MAY, 2010.





Notary Public in and for the State of

Washington, residing at PASCO, WA

My Commission Expires: 10/25/10

