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OCT 17 1997

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JAMES ASHAUER, DAVIS CNTY RECORDER
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REC'D FOR CENTERVILLE CITY

DECLARATION
OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SHADOW ACRES SUBDIVISION
PHASE II

Shadow Acres Phase II
Lots 201 to 229 + Parcel A

WHEREAS, Joel A. Anderson, is the record owner of real property situated in Davis County, Utah, known as SHADOW ACRES SUBDIVISION Phase II, which is more particularly described Exhibit A attached hereto and by this reference incorporated herein (the "Property").

WHEREAS, Joel A. Anderson desires that the property be developed generally in accordance with a master plan and general scheme of development into a residential community to be known as the "Shadow Acres Subdivision Phase II."

WHEREAS, the Shadow Acres Subdivision Phase II Homeowners Association (the "Association"), has been or will be incorporated as a Utah non-profit corporation to act as a homeowners' association with the powers of managing, maintaining the property, administering and enforcing the covenants, conditions and restrictions, and assessing and collecting for, on a monthly basis a prorated share of the cost for maintaining, repairing, administering and performing such other acts as are provided for or set forth in this Declaration of Protective Covenants, Conditions and Restrictions for the Shadow Acres Subdivision (this "Declaration") or which generally benefit its members or the Property.

THEREFORE, to further the general purposes herein expressed, Joel A. Anderson, for himself, his successors and assigns, hereby declares that all of the Property shall at all time, be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions herein contained.

I. DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

(a) "Association" shall mean the Shadow Acres Phase II Homeowners Association, a Utah nonprofit corporation, organized or to be organized to administer and enforce the covenants and to exercise the rights, powers and duties set forth in this Declaration.

(b) "Board" Shall mean the Board of Directors of the Association.

(c) "Lot" Shall mean any area of real property within Shadow Acres Subdivision Phase II, designated as a Lot or any subdivision plat recorded or approved by Joel A. Anderson.

(d) "Member" shall mean any person holding a membership in the Association.

(e) "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any lot. If there is more than one record holder of legal title to a lot, each record holder shall be an "Owner."

II. MEMBERSHIPS AND VOTING

2.1 MEMBERS. Every Owner of a Lot shall be a Member of the Association and, when more than one person is the Owner of any Lot, all such persons shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's lot and any such transfer shall automatically transfer the membership appurtenant to said Lot to the new Owner thereof.

2.2 VOTING. Each Member shall be entitled to one vote for each Lot owned, subject to the authority of the Board of suspend the accordance with the provisions hereof, When any lot is owner by more than one Member, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. The Association shall have no votes as to Lots owned by it.

2.3 NO CUMULATIVE VOTING. In any election of the members of the Board, the Owner or Owners of a given Lot shall collectively have one vote for each Director position to be elected. The candidate receiving the highest number of votes for a given Director position shall be deemed elected. Cumulative voting shall not be allowed in the election of members of the Board or for any other purposes.

III. ASSOCIATION

3.1 FORMATION OF ASSOCIATION. The Association shall be a nonprofit Utah corporation charged with the duties and invested with the powers prescribed by law and set forth in its articles and bylaws and this Declaration. Neither the articles nor bylaws of the Association shall, for any reason, be amended or otherwise change or interpreted so as to be inconsistent with this Declaration.

3.2 BOARD OF DIRECTORS AND OFFICERS. The affairs of the Association shall be conducted by the Board and such Officers as the board may elect or appoint in accordance with the articles and bylaws of the Association as the same may be amended from time to time. The initial Board shall be composed of two directors: Joel A. Anderson. The Board may also appoint various committee and appoint a president and other officers, who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association.

3.3 PERSONAL LIABILITY. Neither Joel A. Anderson nor any director of the Board or committee member of the Association shall be personally liable to any Owner, Member, or to any other person, including the Association, for any damage, loss, claim or

prejudice suffered or claimed on account of any act, omission to act, performed intentionally and with malice.

IV. RIGHTS AND POWERS OF ASSOCIATION

4.1 ASSOCIATION'S RIGHTS. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its articles and bylaws.

4.2 RIGHTS OF ENFORCEMENT. The Association, as the agent and representative of the members, shall have the right to enforce the covenants set forth in this Declaration. The Association, Joel A. Anderson or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations now or hereafter imposed by the provisions of the Declaration. In addition, the Association and Joel A. Anderson shall have the right to enforce at law or in equity, all liens and charges now or hereafter imposed by the provisions of this Declaration. If the Association, Joel A. Anderson or any Owner prevails in any proceeding at the Association, Joel A. Anderson or such Owner, as applicable, is entitled to judgment against the breaching Owner or Member for costs and reasonable attorneys fees associated with the action. Failure by the Association or by Joel A. Anderson to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

4.3 IMPROPER MAINTENANCE AND LIENS. In the event any portion of any lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of surrounding Lots; or in the event any portion of a Lot is being used in a manner which violates this Declaration; or in the event any Owner is failing to perform any of its obligations under this Declaration or the architectural guidelines and standards of the Design Review Committee, the Board may be resolution make a finding to such effect, specifying the particular condition or conditions which exist, and give notice thereof to the offending Owner that unless corrective action is taken within fourteen days, the Board may cause such action to be taken at said Owner's costs. If at the expiration of said fourteen-day period of time the required corrective action has not been taken the Board shall be authorized and empowered to cause such action to be taken, and the cost thereof shall be assessed against such Owner.

If the assessed cost is not paid by such Owner within thirty days, the amount of the cost plus interest, collection costs and reasonable attorney's fees, constitutes a lien upon the Owner's lot and upon the recording of notice of the lien by the Board, it is a lien upon the Owner's lot in prior to all other liens and encumbrances, recorded or unrecorded, except (1) tax and special assessment liens on the Owner's lot in favor of any assessing unit or special improvement district, and (2) encumbrances on the Owner's Lot recorded prior to the date such notice is recorded.

The Board in cases of extreme hardship may release any such lien if it received other security for the payment of the delinquent costs which it deems sufficient to protect the interests of the Association.

V. DESIGN REVIEW COMMITTEE

5.1 CREATION. There shall be established as part of the Association a Design Review committee (the "Committee"). The directors of the Board will serve as the members of the Committee. Additional committee members may be appointed for specific terms by vote of the Board.

5.2 PURPOSE. The purposes of the Committee shall be to create, maintain and improve Shadow Acres as a pleasant and desirable environment, to establish and preserve a harmonious design for the community and to protect and promote the value of the Property. Exterior design, landscaping and changes or alterations to existing use of the property shall be subject to review and approval by the committee.

5.3 POWERS. The committee is hereby authorized to perform the design review functions prescribed in this Declaration and the Association's Bylaws and to carry out the provisions set forth therein. Before construction of any improvement on a Lot may commence, the Owner must submit the improvement plans to the committee and the committee may have reviewed and approved the plans. The committee may reject any home, improvement or site plans it deems do not comply with the provisions of this Declaration.

VI. COVENANTS, CONDITIONS AND RESTRICTIONS

6.1 USE OF LOTS. Each Lot within Shadow Acres Phase II shall be used only for the construction and occupancy of one single family dwelling, not to exceed two stories in height, together with off street parking in a minimum two-car garage, and parking aprons as approved or required by the committee. Lots may also be used for the construction of typical residential amenities such as a family swimming pool, etc. Each lot shall be used, improved and devoted exclusively for such single family residential use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on the Property and no person shall enter into any Lot for engaging in such uses or for the purpose of receiving products or services arising out of such usage without review and approval of the Committee and the appropriate officials of Centerville City.

6.2 ARCHITECTURAL CONTROL. No landscaping, grading, excavation, building, fence, wall, residence or other structure, or alteration of any kind shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications have been approved in writing by the Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, shall be subject to the prior written approval of the committee. No changes or deviations in or from the plans and specifications once approved by the committee shall be made without

the prior written approval of the committee. Subsequent to receiving approval of the committee and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit, if required, from Centerville City.

6.3 CONSTRUCTION QUALITY, SIZE AND COSTS. The Committee will base its approval of construction plans, specifications, and other alterations on the acceptability and harmony of the external design of the proposed structures with respect to topography and grade, quality of materials, size, heights, color, etc. The Committee shall have final control of approval of all material plans.

All structures constructed on the Property shall be of new materials, except pre-approved used brick, and shall be of good quality workmanship and materials. Masonry (brick, stone, or stucco) exterior is required for 25% of exterior. Log structures are Prohibited. Siding (aluminum or vinyl) shall be permitted. All Owners shall strictly comply with all state laws and city ordinances pertaining to fire hazard control.

A single story dwelling must have at least 1200 square feet of finished living area . Multi level dwelling will have at least 1600 square feet of finished living area.

6.4 CONSTRUCTION TIME. The construction time for the exterior portion of any structure, shall not exceed 18 months from start to finish, including landscaping. "Start" shall be the instant any foliage is cut or removed in anticipation of the landscaping or construction to be built. All building process shall be removed within the 18 month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks.

6.5 TEMPORARY OCCUPANCY AND TEMPORARY BUILDINGS. No trailer, basement of any incomplete building, tent, shack, garage or barn, and temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling or any property shall be removed immediately after the completion of construction.

6.6 OUT BUILDINGS. It is understood that out buildings such as swimming pool and dressing facilities may be constructed on any lot as long as they are in conformity with the requirements of this Declaration and are approved by the committee.

6.7 EXTERIOR ANTENNAS, SATELLITE DISHES. Exterior antennas are allowed. Satellite dishes will be allowed provided they are placed or screened so they are not visible to neighboring properties and streets. The location of satellite dishes must be approved by the Committee.

6.8 NUISANCES: CONSTRUCTION ACTIVITIES. No rubbish or debris of any kind shall be place or permitted to accumulate upon or adjacent to any Lot, and no orders or loud noises shall be permitted to arise or emit therefrom, so as to render any

such property or any portion thereof or activity thereon unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of improvements on a lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick block, lumber and other building materials will be piled only in such areas as may be approved by the Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only areas approved by the Committee.

No automobiles, trailers, boats, racks, snowmobiles, motorhomes, recreational vehicles or any other type of vehicles shall be stored on driveways for more than 30 days. Such vehicles that are properly licensed and in running condition may be stored on side lot if properly screened from view. The acceptability of the screening structure must be approved by the committee. Unlicensed vehicles or vehicles that are not in running condition must be stored in garages or at locations off the Property.

No oil or gas drilling, development, operations, refining, storage, quarrying or mining operation of any kind shall be permitted upon or in any Lot.

The burning of rubbish, leaves or trash on the Property is prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection.

No Owner, shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

The committee in its sole discretion shall have the right to determine the existence of any nuisance.

6.9 SIGNS. The placement of signs, graphics, or advertisements which are permanent in nature or represent advertisement for small business conducted in the home is prohibited.

6.10 FENCE. The developer shall be required to install a solid opaque fence constructed of either vinyl or wood along the west end of the subdivision that borders the frontage road. The homeowners who are subject to that fence must maintain it in the event it becomes damaged. In the event of replacement, the fence will be replaced with like kind materials such that are available, and that the fence be finished on both east and west sides and that it be adequately engineered to meet the City Engineer's recommendation to withstand wind loadings in Centerville.

6.11 ANIMALS. The Association is committed to the preservation and protection of native animal wildlife which may from time to time wander onto and through the Property. Such wildlife shall not be hunted within Shadow Acres. No animal, bird, fowl, poultry or livestock of any kind shall be raised, bred or kept on any lot except that domestic dogs (a maximum of two), cats (maximum of three) and other household pets may be permitted by the Association so long as they are maintained in accordance with this Declaration and any additional rules and regulations imposed by the Association and are not a nuisance or kept, bred or maintained for any commercial purposes. No dog owned by any owner or in said Owner's control of custody shall be allowed to roam unattended in Shadow Acres. Each Owner who intends to keep a dog on their lot, must keep the dog in their house or construct a dog run or kennel for the purpose of confinement and in a manner and location approved by the Committee and applicable zoning for Shadow Acres Subdivision. At all other times, dogs shall be on a leash and under the direct control and supervision of said Owner.

6.12 REPAIR OF BUILDING. No building or structure on any lot shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then subject to the approvals required by subsection 6.1 above, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

6.13 RESTRICTION ON FURTHER SUBDIVISION, PROPERTY RESTRICTIONS AND REZONING. No lot shall be further subdivided or separated into smaller lots by any Owner, and not portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on a document recorded with the county recorder. No further covenants, conditions, restrictions easements shall be recorded by any Owner or person against any lot without the provisions thereof having been first approved in writing by the Board and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Board and the proposed use otherwise complies with this Declaration.

6.14 ASSESSMENT OF ANNUAL MAINTENANCE FEE. The lot owners shall be responsible for the exclusive management, control and maintenance of the subsurface drainage system serving the Subdivision. An annual fee shall be assessed on all property located within the Subdivision in an amount sufficient to cover on-site and off-site maintenance of the sub-drain system and related parts thereof serving the Subdivision.

Each lot owner, by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to

covenant and agree with each other (and with any Homeowners Association involved,) to pay all assessments made for the purposes of providing maintenance of the subsurface drain system serving the Subdivision. Unless otherwise specified herein, the fee assessed shall be a portion of the total maintenance costs representing the lot owner's prorata share i.e. if there are 20 lots total in the subdivision and owner owns 1 lot, owner's share will be 1/20 of total expenses for year.

All sums assessed a lot owner within the Subdivision pursuant to the provisions hereof, together with the interest thereon as provided in these protective covenants, shall be secured by a lien on such lot in favor of the lot owners (or an homeowners association involved). To evidence a lien for sums assessed pursuant to this Section, the lot owners (or the Homeowners Association) shall prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the lot owner and description of the lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the lot owners (or Homeowners Association) and may be recorded in the office of the Davis County Recorder, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. (Other assessments may be made to cover the common expenses of the lot owners in a project.)

Subsurface drainage system assessments shall be assessed for those portions of the subsurface drainage system serving the subdivision which are located in public streets or dedicated public rights-of-way. Each lot owner shall be solely responsible for maintenance of the subsurface drainage facilities on or beneath said lot owner's lot.

The lot owners/developer may elect to delegate their responsibilities for the subsurface drain system, including funding and maintenance of such system, to a non-profit corporation Homeowner's Association; provided however, such delegation shall not release or absolve the lot owners from their obligations to maintain and fund the subdrain system in the event the Homeowner's Association should terminate at any time for any reason.

The lot owners hereby covenant and agree with Centyerville City that in the event the subsurface drainage system is not maintained and funded by the lot owners as provided herein above that the City shall have the right to assess the property owners their prorata share of the costs of such maintenance on an annual basis and shall have the right to secure such assessments with a lien with interest thereon and to provide notice thereof in the manner provided above in these covenants.

VII. AMENDMENTS

7.1 TERM: METHOD OF TERMINATION. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continued in full force and effect for a term of twenty years from the date of recordation. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten years each, unless there is an affirmative vote to terminate this

Declaration by the then Members casting seventy-five percent of the total votes entitled to be cast at an election held for such purpose within six months prior to the expiration of the initial effective period hereof or any ten year extension. This Declaration may be terminated at any time if at least ninety percent of the votes cast by all Members shall be cast in favor of terminations at an election held for such purpose. No vote to terminate this Declaration shall be effective unless and until the written consent to such termination has been obtained, within a period from six months prior to such vote to six months after such vote, from the holders of recorded first mortgages or deeds of trust not less than on seventy-five percent of the Lots upon which there are such recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be recorded in the Davis County real property records a "Certificate of Termination", duly signed by the President or vice-president and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon the covenants herein contained shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its articles.

7.1 AMENDMENTS. This Declaration may be amended by recording in the Davis County real property records a "Certificate of Amendment", duly signed and acknowledged as required for a Certificate of Termination. The Certificate of Amendment shall set forth un full the amendment adopted, and shall certify that at an election duly called and held pursuant to the provisions of the articles and bylaws of the Association the Members casting seventy-five percent of the votes at the election, voted affirmatively for the adoption of the amendment. Any amendment shall be effective only if the written consent from the holders of recorded first mortgages or deeds of trust on seventy-five percent of the Lots upon which there are such recorded first mortgages of deeds.

VIII. MISCELLANEOUS

8.1 INTERPRETATION OF COVENANTS. Except for judicial construction, the Association, by its Board, shall have the exclusive right of construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

8.2 SEVERABILITY. Any determination by any court of competent jurisdiction that any provisions of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

8.3 RULE AGAINST PERPETUITIES. Each provision contained in this Declaration which is subject to the laws or rules sometime referred to an the alienation shall continue and remain in full force and effect for the period of 21 years following the death of the last survivor of the issue of Utah Governor Michael Leavitt, and the now living children of said issue, or until this Declaration is terminated as hereinafter

provided, whichever first occurs. All other provisions contained in this Declaration shall continue and remain in full force and effect.

8.4 RULES AND REGULATIONS. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

IN WITNESS WHEREOF, Joel A. Anderson has hereunto caused his name to signed by the signature of its duly authorized official as of the day and year written.

JOEL A. ANDERSON

BY: Joel A. Anderson
TITLE Owner

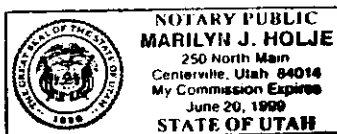
STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On the 13th day of August, 1997, personally appeared before me Joel A. Anderson, the signer of the foregoing instrument individually and after being duly sworn, acknowledged to me that he signed the same of his own free will.

Marilyn J. Holje
Notary Public

Commission expires:

Residing at:



(Attached to and forming a part of
Declaration of Protective Covenants,
Conditions and Restrictions
for SHADOW ACRES PHASE II

LEGAL DESCRIPTION OF THE PROPERTY

SHADOW ACRES PHASE II

Beginning at the Northwest Corner of Lot 27 of "The Pines" Subdivision in Centerville City, Davis County, Utah, which point is S 0°05'33"E 98.15 ft. along the Section Line and N 89°53'30"E 870.40 ft. along the South line of Chase Lane (a 66 ft. wide road) from the Northwest Corner of Section 7, T.2N., R.1E., S.L.B.&M. and running thence S 0°51'20"W 799.23 ft. along the extended West line of said "The Pines" Subdivision and Shadow Acres Subdivision; thence S 89°52'46"W 522.71 ft. along the North Boundary of Deuel Creek Estates Plat II Subdivision; thence along the East right-of-way line of a frontage road in the following two courses: Northwesterly 303.00 ft. along the arc of a 5689.58 ft. radius curve to the right through a central angle of 3°03'05" (radius point bears N 87°02'45"E from the beginning of the curve), and N 0°18'00"E 496.36 ft.; thence N 89°53'30"E 539.60 ft. along said South line of Chase Lane to the Point of Beginning.

Containing: 9.8061 Acres

BY-LAWS OF
SHADOW ACRES SUBDIVISION PHASE II
HOMEOWNERS ASSOCIATION

ARTICLE I

OFFICES

The principal offices of the Corporation in the State of Utah shall be located at Joel A. Anderson, 5830 Cascade Mountain Green, Utah 84050.

ARTICLE II

MEETINGS

1. **Annual Meetings.** The annual meeting of the members shall be held during the month of December of each year beginning with the year 1996, for the purpose of electing trustees and for the transaction of such other business as may come before the meeting. In the event that such annual transaction of such other business as may come before the meeting. In the event that such annual meeting is omitted by oversight or otherwise during the month provided for, the trustees shall cause a meeting in lieu thereof to be held as soon thereafter as may be convenient, and any business transacted or elections held at such meeting shall be as valid as if transacted to held during the month in which the annual meeting was to be called. If the election of trustees shall not be held during the month designated herein for the holding of the annual meeting of members or at any adjournment of any meeting so called, such subsequent meetings shall be called in the same manner as is provided for the calling of the annual meeting of the members. Such meeting may also be called without the required advance notice if the quorum of members calling such meeting shall obtain from the members of the foundation, written waiver of notice of such meetings, and such waiver shall be attached to the minutes of the annual members' meeting so called, in the corporate minute book.

2. **Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority of a quorum of the Board of Trustees, or upon written request of the Members representing at least fifty percent (50%) of the total membership.

3. **Notice of Meetings.** Notice of all Members' meetings, annual or special, shall be given by personal delivery mail or telegram and shall be given not less than fifteen (15) days nor more than sixty (60) days before the time of the meeting and shall

set forth the place, date, and hour of the meeting, and the nature of the business to be undertaken.

Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each Member, the notices shall be addressed to the Member's address last appearing on the books of the Foundation or supplied by the Member. Mailed notices shall be deemed received forty-eight (48) hours after they are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to Members may also be personally delivered and shall be deemed received upon delivery to any occupant of the Member's residence.

4. **Quorum.** The presence at any meeting in person or by proxy of fifty percent (50%) of the Members constitutes a quorum. If any meeting cannot be held because a quorum is not present, a majority of those present, either in person or by proxy, may adjourn the meeting for a period of not more than three (3) business days to acquire the proxy or presence of a quorum of Members. If the required quorum cannot be obtained, another meeting may be called subject to the notice requirement and the required quorum at the subsequently noticed meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Any meeting of the Members at which a quorum is present may be adjourned for any reasons to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present either in person or by proxy. If after the adjournment a new date is fixed for the adjourned meeting, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

5. **Proxies.** At all meetings of Members each Member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically terminates eleven (11) months from the date of its execution unless otherwise provided in the proxy, and in all cases, such proxy shall terminate three (3) years from its date.

6. **Order of Business.** The order of business of all meetings of the Members shall be as follows:

- (a) roll call;
- (b) proof of notice of meeting or waiver of notice;
- (c) reading of minutes of preceding meeting;
- (d) reports of Board of Trustees and officers;
- (e) election of members of the Board of Trustees, if any are to be elected;

- (f) unfinished business; and
- (g) new business.

7. **Waiver of Notice.** Whenever any notice whatever is required to be given by these Bylaws, or by the Certificate of Incorporation of this Corporation, or by any of the Corporation laws of the State of Utah, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent thereto.

ARTICLE III

BOARD OF TRUSTEES

1. **General Powers.** The business and the affairs of the Corporation shall be managed by its Board of Trustees.

2. **Number, Tenure and Qualifications.** The number of trustees shall be not less than two (2), nor more than seven (7) trustees. Each trustee shall hold office until the next annual meeting of members or until his successor shall have been duly elected and qualified.

3. **Election of Board of Trustees.** The Board of Trustees shall be chosen by ballot at the annual meeting of members or at any meeting held in place thereof, as provided by law.

4. **Powers of Trustees.** The Board of Trustees shall have the responsibility for the entire management of the business of this Corporation. In the management and control of the property, business and affairs of the Corporation, the Board of Trustees is vested with all of the powers possessed by the Corporation itself insofar as this delegation of authority is not inconsistent with the laws of the State of Utah and with the Certificate of Incorporation or with these Bylaws.

5. **Meeting of Trustees.** Regular meetings of the Board of Trustees by vote may determine, and if so determined, no notice thereof need be given. Meetings of the Board of Trustees may be held by telephone. Special meetings of the Board of Trustees may be held at any time or any place within or without the State of Utah whenever called by the President, Vice-President, Treasurer, Secretary and Assistant Secretary or two (2) Trustees, notice thereof being given to each trustee by the Secretary or an Assistant Secretary or by the officer calling the meeting, or by delivering the same to him personally or telegraphing the same to him at residence or business address not later than forty-eight (48) hours prior to the date on which the meeting is to be held. In case of emergency, the chairman of the Board of Trustees or the resident may prescribe a shorter notice to be given personally or by telegraphing each trustee at his residence or business

address. Such special meeting shall be held at such time and place as the notice thereof or waiver shall specify. The officers of the Corporation shall be elected by the Board of Trustees after its election by the members, and a meeting may be held without notice for this purpose immediately after the annual meeting of members and at the same place.

6. **Quorum of Trustees.** A majority of the members of the Board of Trustees as constituted for the time being shall constitute a quorum for the transaction of business, but a lesser number not less than two (2) may adjourn any meeting and the meeting may be held as adjourned without further notice. When a quorum is present at any meeting, the majority of the members present thereat shall decide any question brought before such meeting except as otherwise provided by law or by these Bylaws.
7. **Vacancies.** Any vacancy occurring in the Board of Trustees may be filled by an affirmative vote of the majority of the remaining trustees though not less than a quorum of the Board of Trustees, unless otherwise provided by law or by the Certificate of Incorporation. A trustee elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any trusteeship to be filled by reason of an increase in the number of trustees shall be filled by election at the annual meeting or at special meeting of members called for the purpose.
8. **Compensation.** By resolution of the Board of Trustees, trustees may be paid their expenses, if any, of attendance at each meeting of the Board of Trustees. NO such payment shall preclude any trustee from serving the Corporation in any other capacity and receiving compensation therefor.
9. **Presumption of Assent.** A trustee of the Corporation who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent of such action with the person acting as Secretary of the meeting or the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a trustee who voted in favor of such action.
10. **Formal Action by Trustees.** Unless otherwise provided by law, any action required to be taken at a meeting of the Board of Trustees or any other action which may be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all the trustees entitled to vote with respect to the subject matter thereof.

ARTICLE IV

OFFICERS

1. **Officers of the Corporation.** The officers of this Corporation shall be a President, a Vice-President or Vice-Presidents, as the case may be, a Secretary, and an Assistant Secretary, if so required, and a Treasurer. The Board of Trustees who, when present, shall preside at all meetings of the Board of Trustees, shall have other such powers as the Board of Trustees may, from time to time, prescribe.
2. **Eligibility of Officers.** The President and chairman of the Board of Trustees need not be members but shall be trustees of the Corporation. The Vice-President or Vice-Presidents, Secretary and/or Assistant Secretary, Treasurer, and such other officers as may be elected or appointed, need not be members or trustees of the Corporation. Any person may hold more than one office provided the duties thereof can be consistently performed by the same person; provided, however, that no person shall, at any time, hold the three (3) offices of President, Vice-President and Secretary-Treasurer.
3. **Additional Officers and Agents.** The Board of Trustees at its discretion, may appoint a General Manager, one or more Assistant Treasurers and one or more Assistant Secretaries and such other officers or agents as may be deemed advisable and prescribe the duties thereof.
4. **Election and Term of Office.** The officers of the Corporation to be elected by the Board of Trustees shall be elected annually by the Board of Trustees at the first meeting of the Board of Trustees held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold the office until his successor shall have been duly elected and shall have qualified or until his death or until he resign or have removed in the manner hereafter provided.
5. **President.** The President shall be the chief executive officer of the Corporation and, when present, shall preside at all meetings of the members and unless a chairman of the Board of Trustees has been elected and is present, shall preside at meetings of authorized by vote of the Board of Trustees, shall sign all bonds, deeds, mortgages, extension agreements, modification of mortgage agreements, leases and contracts of the Corporation. He shall perform all the duties commonly incident to his office and shall perform such other duties as the Board of Trustees shall designate from time to time.
6. **Vice-President or Vice-Presidents.** Except as specifically limited by vote of the Board of Trustees, any Vice-President shall perform the duties and have the powers of the President during the absence or disability of the President and shall have the power to sign all bonds, deeds and contracts of the Corporation. He shall perform such other duties and have such other powers as the Board of Trustees shall, from time to time, designate.
7. **Secretary or Assistant Secretary.** The Secretary shall keep accurate minutes of all meetings of the members of the Board of Trustees and shall perform such

other duties and have such other powers as the Board of Trustees shall, from time to time, so designate. In his absence at any meeting, an Assistant Secretary or a Secretary Pro Tempore shall perform his duties thereat. The Secretary, any Assistant Secretary, and any Secretary Pro Tempore shall be sworn to the faithful discharge of their duties.

8. **Treasurer.** The Treasurer, subject to the order of the Board of Trustees, shall have the care and custody of the money, funds, valuable papers, and documents of the corporation (other than his own bond, if any, which shall be in the custody of the President), and shall have and exercise, under the supervision of the Board of Trustees, all the powers and duties commonly incident to his office and shall give bond in such form and with such sureties as shall be required by the Board of Trustees. He shall deposit all funds of the Corporation in such bank or banks, trust company or trust companies, or with such firm or firms doing a banking business as the trustees shall, from time to time, so designate. The Treasurer may endorse for deposit or collection all checks and notes payable to Corporation or to its order, and may accept drafts on behalf of the Corporation. He shall keep accurate books of account of the Corporation's transactions which shall be the property of the Corporation and, together with all property in his possession, shall be subject at all times to the inspection and control of the Board of Trustees.

All checks, drafts, notes or other obligations for the payment of money shall be signed by such officer or officers or agent or agents as the Board of Trustees shall, by general or special resolution, direct. The Board of Trustees may also in its discretion, require by general or special resolution, that checks, drafts, notes and other obligations for the payment of money shall be countersigned or registered as a condition to their validity by such officer or officers or agent or agents as shall be directed in such resolution.

9. **Resignations and Removals.** Any trustee or officer of the Corporation may resign at any time by giving written notice to the Corporation, to the Board of Trustees, or to the Chairman of the Board, or to the President or Secretary of the Corporation. Any such resignation shall take effect at the time specified therein or, if the time be not specified therein, upon its acceptance by the Board of Trustees.

10. **Vacancies.** If the office of any trustee or officer or agent becomes vacant by reason of death, resignation, removal, disqualification or otherwise, the trustees may, by vote of a majority of a quorum, choose a successor or successors who shall hold office for the unexpired term. Vacancies in the Board of Trustees may be filled for the unexpired term by the members at a meeting called for the purpose unless such vacancy shall have been filled by the trustees. Vacancies resulting from an increase in the number of trustees may be filled in the same manner.

11. **Salaries.** The salaries of the officers shall be fixed from time to time by the Board of Trustees, and no officer shall be prevented from receiving such salary by reason of the fact that he is also a trustee of the Corporation.

12. Management Committee. The officers of the Association shall constitute the Management Committee unless the Board of Trustees, by a majority vote, otherwise directs.

ARTICLE V

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CONTRACTS, LOANS, CHECKS AND DEPOSITS

1. **Contracts.** The Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances.

2. **Loans.** No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Trustees. Such authority may be general or confined to specific instances

3. **Checks, Drafts, Etc.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner as shall, from time to time, be determined by a resolution of the Board of Trustees.

4. **Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Trustees may, in its sole discretion, select.

5. **Conflicts.** Nothing contained in this Article shall, in any way conflict, or in any way otherwise, hamper the duties and obligations as set forth for the Treasurer of the Corporation, as provided in paragraph IV.8 hereof.

ARTICLE VI

WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be given to any member, or trustee of the Corporation under the provisions of these Bylaws or under the Certificate of Incorporation, a waiver of notice thereof in writing, signed by the person or persons entitled to such notice, whether before or after the stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE VII

MISCELLANEOUS

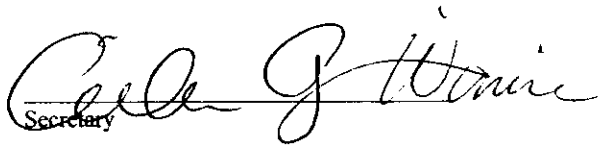
1. The Board of Trustees shall have the power to fix, and from time to time, change the fiscal year of the Corporation. Unless otherwise fixed by the Board of Trustees, the calendar year shall be the fiscal year.
2. The Board of Trustees shall, at all times, keep themselves informed and take such steps and necessary actions as a reasonable, prudent man would do to serve the best interest of the Corporation.

ARTICLE VIII

AMENDMENTS

They Bylaws of the Corporation, regardless of whether made by the members or by the Board of Trustees, may be amended, added to or replaced by a vote of not less than a majority of the members. Each member shall have one vote.

The forgoing Bylaws were adopted by Shadow Acres Phase II Homeowners Association, Inc., at a meeting of the Incorporators of said Corporation held on the 5th day of August, 1998.


Secretary

C0202732

ARTICLES OF INCORPORATION E 1354510 B 2189 P 253

6 Aug 97
8697

OF

RECEIVED

SHADOW ACRES PHASE II

AUG 06 1997

HOMEOWNERS ASSOCIATION

Utah Div. of Corp. & Comm. Code

LEGIBILITY OF TYPING OR PRINTING
SATISFACTORY IN THE DOCUMENT
WHEN RECEIVED

In compliance with the requirements of Utah Nonprofit Corporation and Cooperative Association Act, Utah Code Annotated, 1953, as amended, the undersigned all of whom are residents of the State of Utah and all of whom are of full age, hereby certify that the following are the Articles of Incorporation of Shadow Acres Phase II

Homeowners Association.

ARTICLE I

The name of the corporation is Shadow Acres Phase II Homeowners Association, hereinafter called the "Association."

ARTICLE II

The period of duration of the Association shall be perpetual.

ARTICLE III

The initial principal office of the Association is located at 5830 Cascade Mt. Green, Utah 84050.

ARTICLE IV

Joel A. Anderson is hereby appointed the initial registered agent of the Association, and is located at 5830 Cascade Mt. Green, Utah 84050.

ARTICLE V

PURPOSE AND POWERS OF THE ASSOCIATION

1. This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide, for

7210 1000

maintenance, preservation and control of the Planned Residential Unit development known as Shadow Acres Phase II within this certain tract of property described as:

Lots 1 through 29, inclusive, SHADOW ACRES Phase II, according to the official plat thereof, as recorded in the office of the County Recorder of Davis County, Utah.

and to promote the health, safety and welfare of the residents within the above-described property.

2. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions hereinafter called "Declaration," applicable to the property and recorded or to be recorded in the Office of the Davis County Recorder, State of Utah, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as set forth at length.
3. Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association.
4. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.
5. Borrow money, and with the assent of majority of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
6. Dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by a majority of members, agreeing to such dedication, sale or transfer.
7. Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members.
8. Have and to exercise any and all powers, rights and privileges which a corporation organized under the Utah Nonprofit Corporation and Cooperative Association Act by law may now or hereafter have or exercise.

ARTICLE VI

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MEMBERSHIP

Every person or entity who is a record owner of a few of undivided fee interest in any lot which is subject to the declaration or record or to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to any may not be separated from ownership of any unit which is subject to assessment by the Association.

ARTICLE VII

VOTING RIGHTS

The Association shall have two (2) classes of voting membership:

1. Class A. A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all persons shall be members. The vote for such unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

2. Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease to be converted to Class A membership on the happening of either of the following events, whichever occurs earlier.

3. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

4. On December 31, 1998, provided, however, that the Declarant shall transfer control of the Association after 75% of the units in the project have been conveyed to unit purchasers.

ARTICLE VIII

MANAGEMENT COMMITTEE

The affairs of this Association shall be managed by a Board of Trustees consisting of three (3) individuals, who need not be members of Association. The number of Board of Trustees may be exchanged by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of Board of Trustees until the selection of their successors are: and Incorporators,

<u>Name</u>	<u>Address</u>	E 13545 10 B 2189 P 256
Joel A. Anderson	5830 W. Cascade Dr. Mt. Green Utah, 84054	
Gail B. Anderson	5830 W. Cascade Mt. Green, Utah 84050	
Camille A. Winnie	1608 N. 2575 E. Layton, Utah 84040	

At the first annual meeting, the Declarant under the Declaration or members shall elect one (1) Member of the board of Trustees for a term of three (3) years, one member of the Board of Trustees for a term of two (2) years, and one member for a term of one (1) year. At each annual meeting thereafter, the members shall elect a number of memberships then becoming vacant for a term of two (2) years.

ARTICLE IX

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than three quarters (3/4) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE X

BYLAWS

The initial affairs of the corporation shall be regulated by the Bylaws adopted by the Board of Trustees.

DATED this 5 day August, 1997.

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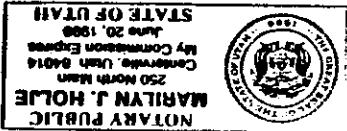

JOEL A. ANDERSON


GAIL B. ANDERSON


CAMILLE A. WINNIE

STATE OF UTAH)
)
) : ss.
COUNTY OF Davis)

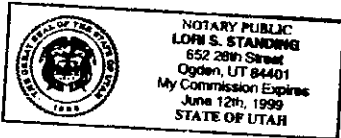
On the 5th day of August, 1997, personally appeared before me Joel A. Anderson, the signer of the foregoing instrument individually and as registered agent and after being duly sworn, acknowledged to me that he signed the same of his own free will.



Marilyn J. Holje
NOTARY PUBLIC

STATE OF UTAH)
)
) : ss.
COUNTY OF Morgan)

On the 5th day of August, 1997, personally appeared before me Gail B. Anderson, the signer of the foregoing instrument individually and as registered agent and after being duly sworn, acknowledged to me that he signed the same of his own free will.



Lori S. Standing
NOTARY PUBLIC

STATE OF UTAH)
)
) : ss.
COUNTY OF Davis)

On the 5th day of August, 1997, personally appeared before me Canille A. Winnie, the signer of the foregoing instrument individually and as registered agent and after being duly sworn, acknowledged to me that he signed the same of his own free will.



Marilyn J. Holje
NOTARY PUBLIC