

**DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
SHADY GROVE P.R.U.D. SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by WINDRUFF CONSTRUCTION COMPANY, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Riverdale City, County of Weber, State of Utah, which is more particularly described as:

All that land in the City of Riverdale, Weber County, Utah, being part of the North half of Section 7, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, described as follows:

Beginning at the Northwest Corner of RASMUSSEN SUBDIVISION PHASE 2, said point being North 00°54'42" East 1751.70 feet, and South 89°05'18" East 2067.76 feet from the West Quarter Corner of said Section 7 (Basis of Bearings being line running South 89°29'37" East between the West Quarter Corner and the center of said Section 7); and running thence along the East boundary line of Greg Haws property; thence along said East line through the next three (3) courses. (1) North 24°54'11" East 69.70 feet, (2) North 44°02'09" East 221.36 feet, and (3) North 40°34'19" East 161.25 feet to the South line of SHERWOOD SUBDIVISION; Thence North 82°43'41" East 260.00 feet along said South line; thence South 07°16'19" East 215.00 feet; thence North 82°43'41" East 100.00 feet to the West line of 700 West Street; thence South 07°16'19" East 248.83 feet along the said West line to the North line of RASMUSSEN PHASE 2 SUBDIVISION; thence along the said North line through the next four (4) courses: (1) South 82°43'41" West 373.35 feet, (2) North 04°23'07" West 34.75 feet, (3) North 82°35'18" West 192.13 feet, and (4) North 67°43'22" West 151.71 feet to the point of beginning.

Contains 5.14 Acres, more or less.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

E# 1403211 BK1804 PG872
DOUG CROFTS, WEBER COUNTY RECORDER
30-APR-96 4:37 PM FEE \$56.00 DEF MH
REC FOR: BONNEVILLE.TITLE

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to SHADY GROVE HOME OWNERS ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

- (a) All Private roads, and drives as platted on the map attached hereto (Exhibit "A").
- (b) All walks required for general public use (not those leading to any home within any particular unit).
- (c) All water and sewer lines within the subdivision.
- (d) All drainage easements, dams, flood easements and rights of way or easements as may be necessary for water, sewage or other utility shall be common areas.
- (e) All other part of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.
- (f) Habitat Preservation Area as platted on the map attached hereto (Exhibit "A").

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Cont. Article I

Section 6. "Declarant" shall mean and refer to WINDRUFF CONSTRUCTION COMPANY, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from Declarant for the purpose of development.

**ARTICLE II
PROPERTY RIGHTS**

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid.
- (b) The right of the Association to dedicate 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 agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A member(s) 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 such persons shall be members. The vote for such Lot shall

Cont. Article III, Section 2, CLASS A.

be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

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

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on 31 December, 1997.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of each Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Eighty Dollars (\$180.00).

Cont. Article IV, section 3

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who have voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not to exceed the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4, shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided, however, that until a unit has been both fully improved with all utilities installed and occupied for the first time as a residence, the monthly assessment applicable to such unit shall be fifty percent (50%) of the monthly assessments fixed for other units.

Cont. Article IV

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the date at the rate of 8 percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien of Mortgages. the lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or form the lien thereof.

**ARTICLE V
ARCHITECTURAL CONTROL**

No building, fence, wall, dog run, or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to, or change, or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by Declarant, or the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Failure of the Board or committee to act within 30 days after submission shall be deemed to constitute approval by the Association.

ARTICLE VI USE RESTRICTIONS

Section 1. All units in the tract and in such property as may be annexed thereto shall be known and described as single family residential units and shall be used for no purpose other than single family residential purposes.

Section 2. There shall be no obstructions of the common areas by the owners, their tenants, guests or invitees without the prior written consent of the Board of Directors. The Board of Directors may by rules and regulations, prohibit or limit the use of the common areas as may be reasonable, necessary for protecting the interests of all the owners, or protecting the units or the common areas. Nothing shall be altered on, constructed in, or removed from, the common areas except upon the prior written consent of the Board of Directors.

Section 3. Nothing shall be done or kept in any unit or in the common areas, or any part thereof, which would result in the cancellation of the insurance on the project or any part thereof or increase the rate of the insurance on the project or any part hereof over what the Board of Directors would pay for such activity without the prior written consent of the Board of Directors. Nothing shall be done or kept in any unit or in the common areas or in any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any government body. No damage to, or waste of, the common areas or any part thereof, shall be committed by any owner or any invitee of any owner, and each owner shall indemnify and hold the Board of Directors and the other owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances, be deemed to be an invitee of any other owner. No noxious, destructive or offensive activity shall be carried on in any unit or in the common areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other owner or to any person at any time lawfully residing in the Project.

Section 4. No sign or billboard of any kind shall be displayed to the public view on any portion of the properties or any Lot, except one sign for each building site, or not more than eighteen (18) inches by twenty four (24) inches, advertising the property for sale or rent except signs used by Declarant, its successors or assigns, to advertise the property during the construction and sales period.

Section 5. No noxious or offensive trade or activity shall be carried on in any unit or any part of the properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners of his respective dwelling unit or which shall in any way increase the rate of insurance.

Cont. Article VI

Section 6. No structure of a temporary character, trailer, basement, tent shack, garage, barn, or other out building shall be used in connection with any unit at any time as a residence, either temporarily or permanently. No trailer, camper, boat, truck larger 3/4 ton, or similar equipment shall be permitted to remain upon any property within the project, unless placed on a designated off-street parking area.

Section 7. No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept in or around any unit or the common area, except usual and ordinary dogs, cats, birds and other household pets may be kept in or around any units subject to the rules and regulations adopted by the Association, provided, that they are not kept, bred, or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided however, that the Association (or the architectural committee or such other person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be more or less. The Association shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board of Directors, a nuisance to any other owner. Animals belonging to owners, occupants or their licensees, tenants or invitees within the properties must be either kept within an enclosure, an enclosed patio or on a leash being held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant (for so long as it owns any interest in the properties) or person designated by Declarant to do so, or the Board of Directors, to a pound under the jurisdiction of the local municipality in which the properties are situated and subject to the laws and rules governing said pound, or to a comparable animal shelter. Furthermore, any owner shall be absolutely liable to each and all remaining owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by animals brought or kept upon the properties by an owner or by members of his family, his tenants, or his guests; and it shall be the absolute duty and responsibility of each such owner to clean up after such animals which have used any portion of the common area.

Section 8. No rubbish, trash or garbage or other waste material shall be kept or permitted upon or around any unit or common areas unless screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefore and fire pits in the patios designed in such a manner that they do not create a fire hazard. No clothing or

Cont. Article VI, Section 8

household fabrics shall be hung, dried, or aired in such a way in the properties as to be visible to other property, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the properties except within an enclosed structure or appropriately screened from view.

Section 9. No fence, hedge, wall or other dividing instrumentality shall be constructed, planted or maintained except those that are approved by the Architectural control committee. The Committee may allow such as are compatible with its architectural plans, and total development of the project.

Section 10. No television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on any of the units or structures in said tract unless and until the same have been approved in writing by the Architectural Committee of the Association.

Section 11. All exterior colors of the project shall be earth tone in nature. Future maintenance, upkeep, etc., shall be of the same type, quality and color.

Section 12. The following restrictions apply, in perpetuity to the mitigation areas labelled "habitat preservation area":

- No discharge of dredged or fill material or excavation in the mitigation areas shall be allowed, including construction of buildings or other structures, minor grading and placement of topsoil;
- The existing vegetation shall not be trimmed, removed or otherwise modified;
- No grazing of animals is allowed;
- Nothing can be done to change the character of the mitigation areas;
- No mowing of the mitigation areas shall be allowed unless necessary for safety reasons; authorization from the Corps must be obtained prior to mowing;
- Any plantings within the mitigation areas shall be limited to native vegetation, including grasses, forbs, shrubs, and trees.

If there are any questions pertaining to this restriction, contact:

U.S. Army Corps of Engineers
1403 South 600 West, Suite A
Bountiful, Utah 84010
(801) 295-8380

ARTICLE VII GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions or this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75) percent of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members. Phase 2 of SHADY GROVE P.R.U.D. SUBDIVISION may be annexed by the Declarant without the consent of members within 5 years of the date of this instrument.

Section 5. Maintenance. Each owner of a Lot and/or home shall be charged with the responsibility of maintenance and upkeep of same. Each home and/or Lot will be maintained in a manner acceptable to the Architectural Committee and the Homeowners Association at all times.

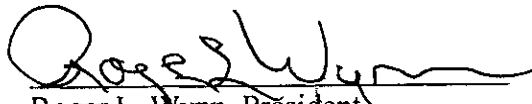
Section 6. Creation of Maintenance Lien. In the event that a home and/or Lot is not maintained in an acceptable manner, as determined by the Architectural Committee and/or Homeowner's Association, the Committee or Association shall contact the owner (by certified mail) stating the nature(s) of the maintenance in question and allowing a reasonable time for correction. In the event that maintenance corrections are not satisfactorily completed within the reasonable time period allowed, the Committee or the Association may contract for the work to be completed and pay for such work. The Committee or Association shall file a lien on said property and provisions of Article IV, Section 8 and Section 9 of this Declaration shall apply.

Cont. Article VII

Section 7. Easements for City and County Use. in addition to the foregoing easements over the Common Area, there shall be, and Declarant hereby reserves the covenants for itself and all future Owners, within SHADY GROVE P.R.U.D. SUBDIVISION, easements for city, county and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the laws. Cities shall also have the easement and right-of-way on the Common Areas and facilities for the purpose of repairing and replacing facilities therein and thereon at its option in the event the Owners Association fails and neglects to do so and to have a lien therefor to guarantee replacement of the costs thereof against all Lots in the Properties.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 22ND day of APRIL, 1996.

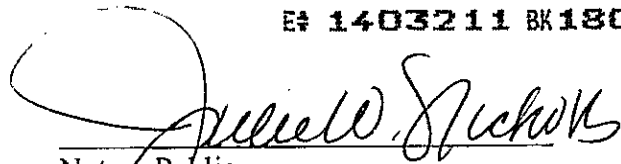
**WINDRUFF CONSTRUCTION COMPANY
DECLARANT**


Roger L. Wynn, President

State of Utah)
 :SS
County of Weber)

On the 22ND day of APRIL, 1996, personally appeared before me Roger L. Wynn, who being duly sworn did say that he the said Roger L. Wynn is the President of WINDRUFF CONSTRUCTION COMPANY, and that the foregoing instrument was signed in behalf of said corporation by the Authority of a Resolutions of its Board of Directors, and the said Roger L. Wynn acknowledged to me that said corporation executed the same.

E# 1403211 BK 1804 P6882


Notary Public

Residing at: Plain City, Ut
My Commission Expires: 2-17-97

