

Yavapai County

Patsy Jenney-Colon, Recorder

01/13/1998 04:06P PAGE 1 OF 12

FIRST AMERICAN TITLE INSURANCE CO.

RECORDING FEE 12.00

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FIRST AMERICAN TITLE

WHEN RECORDED MAIL TO:

ARIZONA LAND AND RANCHES
1020 SANDRETTO DR., SUITE B
PRESCOTT, AZ 86301

CAPTION HEADING: DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
SHADOW ROCK RANCH PHASE 3

BK	FEE
	\$
MAP	\$4
PCL	\$5
	\$1
\$	

Arizona Land & Ranches, Inc
1020 Sandretto Dr. Suite B
Prescott, Arizona 86301

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SHADOW ROCK RANCH Phase 3 Yavapai County, Arizona

THIS DECLARATION, is made by First American Title Insurance Company, a California corporation, as Trustee, Trust No. 8346 as to Phase 3, acting on behalf of its beneficiary, Arizona Land and Ranches, Inc., an Arizona corporation, who along with its successors and designees, shall be the following described real property.

Parcels 64 through 107 Shadow Rock Ranch Phase 3 according to the Result of Survey recorded in the office of the Yavapai County Recorder in Book 41 of Land Surveys, Page 58-61.

Declarant hereby declares that all of the Parcels, or any portion thereof, described above shall be held, sold and conveyed subject to the following covenants, conditions, and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of all the Parcels, and all of which are hereby declared to be for the benefit of all the real property described herein and the owners thereof, their heirs, successors, grantees and assigns.

1. PURPOSE OF THESE RESTRICTIONS, COVENANTS AND CONDITIONS

The purpose of these restrictions, covenants and conditions is to assure the use of the property for attractive residential and non-commercial ranch purposes as set forth herein only, and securing to each Parcel owner the full benefit and enjoyment of his or her Parcel in furtherance of a common plan.

2. DEFINITIONS

As used herein, the following terms have the following meanings:

- A. "Association" means the Shadow Rock Ranch Property Owners Associations, as referred to in Part 3 of this Declaration.
 - B. "Bona Fide First Deed of Trust" means any Deed of Trust of Realty Mortgage made in good faith and for value and properly executed and recorded so as to create a lien on any Parcel of Parcels that is prior to the lien of any other Deed of Trust or Realty Mortgage.
 - C. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions.
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- D. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee or equitable or beneficial title to any Parcel including Declarant. Owner shall include the purchaser of a parcel under an executory contract for purchase. The foregoing definition does not include persons or entities who hold an interest in any parcel as security for the performance of an obligation.
- E. "Parcel" or "Parcels" means the Parcel(s) as shown on the Result of Survey, either individually or collectively, as the case may be and any divisions thereof as allowed by law.
- F. "Property" means the real property described in the Result of Survey or any part thereof.
- G. "Result of Survey" or "Survey Map" means the result of survey or record, and subsequent results of survey included by Expansion pursuant to Section 4, as may hereafter be amended, as prepared by Declarant and recorded in the Office of the Yavapai County Recorder.
- H. "Transition Date" means that date specified on or before which the Declarant transfers control of the Association to Owners or at such time as eighty-five percent (85%) – or one hundred percent (100%) – of the parcels have been sold, whichever occurs first.

3. PROPERTY OWNERS ASSOCIATION.

- A. Property becomes subject to the Shadow Rock Ranch Property Owners Association. The purpose of the Association is: (1) to maintain and improve (a) the roadways, gates, fences and roadway drainage facilities within the Property, (b) any wells and their appurtenances designated as common area, and (c) any other common areas benefiting the Property and designated by Declarant for maintenance by the Association; and (2) to maintain and improve roadways on land not within the Property that lie within public or private easements, but only if such roadways provide access to the Property from highways and roads maintained by public funds. Nothing stated in subpart 3.A(2) shall be construed to require the Association to maintain the roadways described in that subpart.
 - B. Each and every Parcel owner, in accepting a deed or contract for any parcel, whether or not it shall be so expressed in such deed or contract, automatically becomes a member of the Association, and agrees to be bound by such reasonable rules and regulations as may, from time to time, be established by the Association. Membership shall be appurtenant and may not be separated from ownership of the Parcel. The rights and obligations of an Owner and membership in the Association
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shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such parcel, whether by intestate succession, testamentary disposition, foreclosure of a deed of trust or a mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Arizona. The Association shall be operated and conducted on a strictly cooperative and non-profit basis. Each parcel Owner as a member shall have such voting rights as set forth in this Declaration.

- C. The Association shall take necessary and appropriate action for the maintenance, repair, replacement, and management of the facilities referred to in subpart 3.A(1) above, and shall have the right to enter upon a parcel, if reasonably necessary, in order to take such action. The Association may take such action as the Association deems appropriate to maintain or repair the facilities referred to in subpart 3.A(2), above.
- D. The Association shall have the power to borrow and encumber its assets and, in all respects, shall have the powers set forth herein, including the power to enter into contracts with third parties to perform all or part of its functions, and to hire its own employees to do so. The Association shall have the power to obtain appropriate insurance, to create reserves, and to issue rules and regulations.
- E. Each Parcel Owner is obligated to pay: (I) regular assessments for normal maintenance and repair and reserves, along with Association insurance and operating costs; (II) special assessments for capital improvements with such assessments to be established by the Association. The regular and any special assessments, late payment penalties and charges, if any, together with interest, (all as set by the Association) costs and reasonable attorney's fees, shall be a lien on the Parcel. Each Parcel Owner shall be personally responsible for his or her share of assessments imposed by the Association. This personal obligation or delinquent assessments shall not pass to the Owner's successor; PROVIDED, HOWEVER, the obligation to pay the same shall be in continuing lien on the Parcel, excepting for the provisions of Paragraph 3.L. below, relating to deed of trust beneficiaries and to realty mortgagees.
- F. The Association shall, on an annual basis, make a determination of the estimated costs of the repair and maintenance of the roadways and any other designated common areas as shown on the Result of Survey or otherwise so designated, including any reserves necessary for future capital expenditures and maintenance. Assessments shall be charged to each Owner on a uniform per acre (calculated to the nearest whole acre) basis. The assessments may be collected on a monthly, quarterly, or annual basis, or any combination of same as determined by the Association. The Association shall prepare an annual budget and also an annual accounting of monies received and disbursed.
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- G. Each Owner shall be responsible to pay the regular assessment commencing on the first day of the month following the date of recordation of the deed or purchase contract wherein the owner acquired legal, beneficial, or equitable title to the Parcel. The Declarant shall not be responsible for comparable assessments on each Parcel owned by it. However, Declarant shall be responsible to provide labor, material and/or monies in sufficient amounts, not to exceed the amount of the normal Parcel assessment for each parcel owned by it, if necessary in Declarant's opinion, to properly fulfill the Association's maintenance responsibilities. Regular assessments shall be set by the Association on an annual calendar year basis. The initial regular assessment shall be Two Dollars and Fifty Cents (\$2.50) per acre per year. Any division of an original Parcel shall be a separate parcel subject to a separate assessment (based on acreage) and entitled to a separate vote in the Association. The Parcel Owner acquiring his or her interest from Declarant during the calendar year shall be obligated for a pro rata portion thereof. The Association shall fix the amount of the regular assessment at least thirty (30) days prior to the end of the calendar year. Written notice of the assessment shall be sent to every Owner. The payment due date shall be established by the Association.
- H. In addition to the regular assessment as set forth above, the Association may set special assessments if the Association determines, by a two-thirds (2/3) ownership vote, that such is necessary to meet the primary purposes of the Association. Any special assessments shall be charged on the same basis per Parcel as regular assessments.
- I. All sums assessed by the Association chargeable to a Parcel, but unpaid, shall constitute a lien on such Parcel prior to all other liens excepting only ad valorem liens in favor of a governmental assessing unit or special assessment district. The Association lien may be foreclosed by the Association in a like manner as a foreclosure of a real property deed of trust or realty mortgage. The Association shall have the power to bid on the mortgage. The Association shall have the power to bid on the delinquent Parcel at a foreclosure sale, and acquire, hold, lease, encumber and convey the same. A suit to recover a money judgment for unpaid assessments and charges shall be maintainable by the Association without foreclosing or waiving the lien securing the same.
- J. The total number of votes in the Association shall be on the basis of three (3) votes per original owner per parcel. The Declarant shall have nine (9) votes for each such parcel it owns. Any Parcel which is legally further divided shall, upon any such division, be entitled to one (1) vote for each parcel division and the original owners votes shall be reduced by (1) vote for each parcel division. The total number of Parcels and therefore the total number of votes may also be increased from time to
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time by expansion, pursuant to Section 4, of the project as evidenced by a Supplemental Declaration, incorporating this Declaration, executed and recorded by Declarant or its designee. Unless otherwise specifically provided herein, all Association matters shall be determined by a majority vote. If more than one party is the Owner of a Parcel, there must be unanimous agreement among those who own an interest, that vote shall not be counted.

- K. The Association shall have the power to adopt Bylaws and to appoint its officers and directors, as well as promulgate reasonable rules and regulations relating to the matters within its purpose.
 - L. Where the holder of a bona fide first deed of trust or of a first mortgage of record, including Declarant, obtains title to the Parcel as a result of foreclosure, or deed in lieu of foreclosure, of said first deed of trust or first mortgage, such acquirer of title, its successors and assigns, shall not be liable for the share of the expenses of the assessments by the Association chargeable to such Parcel which became due prior to the acquisition of title to such parcel by such acquirer. As used in this Declaration, the term "deed of trust" shall include "mortgage" and "agreement for sale" and "holder of deed of trust" or "beneficiary under deed of trust" shall include "mortgagee" under a realty mortgage and "vendor" under an agreement for sale. Such acquirer shall be responsible, as any Owner, for assessments charged subsequent to the acquisition.
 - M. In the event the Association determines that any parcel owner has not complied with the provisions of this Declaration, then the Association may, at its option, give written notice to the Owner of the conditions complained of. The Owner shall correct same or, if not readily correctable within fifteen (15) days after notice from the Association, the Owner shall submit corrective plans proposing its remedy to the condition complained of with fifteen (15) days after notice from the Association. The Association shall approve or disapprove any plans submitted by the owner and set forth a reasonable time for correction of the condition complained of. In the event such condition is not corrected according to the approved plans, within the allotted time, the Association shall have the right to undertake to remedy such condition or violation complained of. The cost thereof shall be deemed to be an assessment to such Owner and enforceable by the Association as if any other unpaid assessment. The Association is hereby granted the right of entry on the affected Parcel to so correct the condition or violation complained of.
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4. EXPANSION.

Declarant, its successors and designees reserve the right to utilize the private roads and to comparably develop adjacent lands within the Shadow Rock Ranch. Any such expansion to be included within this Declaration shall be subject to the terms and conditions of this Declaration, but may include reasonable variances.

5. GENERAL RESTRICTIONS APPLICABLE TO ALL PARCELS

- A. **Single Family Residential and Recreational Use Only:** All parcels shall be used for residential and recreational purposes only. No commercial business shall be conducted on a parcel. This restriction shall not prohibit a home office where business is conducted through telephone, computer, or other electronic means and where the business is not apparent from the exterior of the residence; does not create noise or congestion from traffic or parking; and preserves the residential nature of the subdivision.
- B. **Dwelling Type:** A site built structure can be no more than two stories'. The structures finished exterior shall be in harmony with it's natural surroundings. No mobile homes older than 10 years from the date of manufacture to the date of installation are allowed. All Mobile homes must be skirted. The property around the mobile home shall be graded to flow away from the mobile home.
- C. **Travel Trailers, RVs:** Trailer's, R.V.'s, or campers containing living or sleeping quarters may be placed upon the premises. All permanent installations of travel trailers and Recreational Vehicles (RV's) must be skirted. Permits may be required for permanent placement. No travel trailer or RV can be used as a primary residence.
- D. **Sanitary Facilities:** All dwelling's and/or living quarters shall be self-contained, connected to a septic system, waterless toilet, or other alternative system shall be approved by the appropriate governmental agency
- E. **Additional Subdivisions:** After the initial conveyance of each parcel, it may be further subdivided only twice, creating a maximum of three parcels. Minimum parcel size to be ten acres.
- F. **No Medical Facilities:** Hospitals, clinics, and other facilities for the treatment or care of the physically or mentally ill or disabled are prohibited. Facilities for the treatment or care of animals are also prohibited.
- G. **Churches or Clubs:** or other institutions organized for religious worship or discussion are prohibited as are buildings used primarily as clubhouses or meeting facilities.

- H. **Vehicles:** Any motor vehicle under repair or inoperable may not be parked on any roadway, driveway, or other easement. When said vehicles are parked on a parcel, such motor vehicles must be hidden by walls, fences, screens, or foliage, so as the vehicle is not to be visible from roadways or other parcels. All vehicles, engines, or motors must be operated with a muffler and/or spark arrestor.
- I. **Trash:** No Parcel may be used for temporary or permanent storage of rubbish or trash (collectively, garbage). No garbage may be kept on any Parcel except in covered containers and screened from view from adjacent properties.
- J. **Junk Yards, Second-Hand Business, Material Storage:** No Junk Yards or Second-Hand businesses shall be conducted on any Parcel. No storage of trucks, cars, buses, machinery, equipment or building materials shall be stored on any Parcel unless enclosed in a proper structure to not be visible from an adjoining parcel or passing on the roadway.
- K. **Livestock:** No swine shall be raised, bred, or kept on any parcel. A parcel may be used for ranching, including the use of keeping of a reasonable number of horses and cattle, provided the parcel has been fenced in as dictated by the purchase agreement. Under no circumstances shall a stockyard, dairy, riding stable, kennel, poultry farm or any other commercial activity involving animals be permitted.
- L. **Nuisance Activities:** The unnecessary, prolonged, or indiscriminate creation of noise, dust, fumes, odors or any other offense activity is prohibited, including but not limited to gunfire, road racing and loud music.
- M. **Structure Setbacks:** All structures shall be built at least fifty feet (50) from the front, rear, and sides of parcel boundary. If local governmental regulations provide for more restrictive setbacks, those regulations shall govern. In any event, any construction on a parcel shall comply with all applicable county building regulations. Any fences constructed on a property shall not be closer than thirty (30) feet to any property line for the purpose of grazing animals.
- N. **Easements:** No structure including fencing shall be constructed in the recorded easement as they are shown on the survey plat. However cattle guards may be used. Parcel owners will provide access to the subject easement whenever requested by utility companies.
- O. **Declarants Exemption:** Nothing herein shall be construed as prohibiting Declarant from maintaining a sales or development office on any parcel or engaging in activities which Declarant deems appropriate to its development or sales program or ranching activities.
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- P. **Mineral Rights:** In no event shall any Owner or lessee use or cause to be used any portion of the real property, including his or her own Parcel, for the purposes of drilling, exploring, mining, or otherwise developing any deposits of oil, minerals, or other natural resources lying above, on, or under said property, with the exception of such drilling and exploration by the Declarant or the Owner as may be necessary to produce an adequate water supply for the development of the Parcel involved.
- Q. **Grazing Rights:** The grazing rights to the said property have been retained by Arizona Land & Ranches and excepted from all parcels, until such time as Buyer fences its lands to exclude livestock from grazing property, at that time the grazing rights are terminated. Buyer shall have full unfettered rights to fence property at any time.
- R. **Fencing Setbacks:** If Owner/Buyer wishes to fence off all or part of the property in order to restrict horses and other livestock from crossing or grazing on Owners/Buyers property, they may do so. Construction of said fence must be adequate to help keep off livestock. All fencing must be set back 30' from property lines and may not encroach upon any easement referred to on the recorded map and/or the recorded Conditions, Covenants, and Restrictions. Buyer, at their expense shall have the right to move any existing fence which goes through Buyer's property, provided said fence that is moved must be reconnected so that there is no gap in the overall fencing. Any fences moved and/or installed by Buyer, shall be at Buyer's sole expense, fencing to be constructed with post not more than 15' apart with not less than three stays between posts, with the continuous four strands of barb wire, and is adequate, in accordance with normal ranch standards, to contain horses and other livestock.
- S. **Environmental Protection:** The beauty of the property is in the mixture of trees and open space. Trees (defined as having a minimum trunk diameter of six inches, measured two feet above ground level) may only be cut if the following conditions are met: They must be dead or dying trees; or removal of the trees must be required to clear for building sites, access roads, enable installation of utilities, view corridors, or recreational open space. In any event not more than twenty percent (20%) of any one parcel may be cut or cleared.
- T. **Waiver:** The Declarant its' successor designee shall have the right to allow variance where strict enforcement of these regulations would cause undue hardship.

6. DECLARANT'S CONTROL OF THE ASSOCIATION AND MAINTENANCE OF THE COMMON PROPERTY.

The Declarant will maintain control of the Association and act as its Board of directors until the Transition Date.

The Declarant shall notify the Association in writing of the Transition Date on or about thirty (30) days of said Transition Date. The Association shall call a meeting of Owners for the purpose of taking over the operation of the Association. At such meeting, the Association shall elect, by a majority of the votes cast by the Owners, five (5) persons to the Board of Directors of said Association, all of whom shall be owners in Shadow Rock Ranch. Thereafter, all affairs of the Association shall be conducted by a Board of Directors and such officers that the Board may elect or appoint in accordance with the Articles and Bylaws, as they may be amended from time to time.

The Association may employ or contract for maintenance of roadways and assess members for the cost thereof.

7. GENERAL PROVISIONS

- A. **Enforcement:** The Covenants, Conditions, and Restrictions contained in this Declaration shall run with the land and shall be binding upon all persons owning, leasing, subleasing or occupying any Parcel after the date on which this instrument shall have been recorded in the office of the Recorder of Yavapai County, Arizona. This Declaration may be enforced by the Declarant, by any Owner or lessee of any parcel, by the holder of a Bona Fide First Deed of Trust on any Parcel, by the Association, or by any one or more of said persons acting jointly; PROVIDED, HOWEVER, that any breach by reason thereof shall not defeat or adversely affect the lien of a Bona Fide First Deed of Trust upon any Parcel, but each and all said Covenants, Conditions, and Restrictions shall be binding upon and effective against any Owner, lessee or occupant of said Parcel whose title thereto is acquired by foreclosure, or otherwise, and PROVIDED also that the breach of any said Covenants, Conditions, and Restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such Bona Fide First Deed of Trust. All instruments of conveyance or assignment of any interest in all or any part of the Property may refer to this instrument and shall be subject to the Covenants, Conditions, and Restrictions herein contained as fully as though this instrument were therein set forth in full; PROVIDED, HOWEVER, that the terms, whether express reference is made to this instrument or not.
- B. **Invalidity:** Invalidation of any of these Covenants, Conditions, and Restrictions, or of any other reservation or servitude by judgment, Court order, or otherwise, shall in no way affect the validity of any of the other provisions of this Declaration, all of which shall remain in full force and effect.
- C. **Legal Fees and Costs of Suit in Event of Lawsuit:** The Declarant or the Board of Directors of the Association may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce the payment of any delinquent assessment or to enforce any other pertinent provision of this Declaration. Any judgment

rendered in any such action shall include the amount of the delinquency, interest at the rate of twelve percent (12%) per annum from the date of delinquency, the amount of damages proven, court fees, and reasonable attorney's fees which are incurred by the Association as fixed by the Court.

D. **Amendments:** This Declaration may be amended by instrument executed by the Owners (based on acreage) of at least sixty-six and two-thirds percent (66 2/3%) of Parcels, and such amendment shall be recorded in the Office of the Yavapai County Recorder.

E. **Term:** Covenants, Conditions, and Restrictions and any other reservation or servitude of this Declaration, as the same may hereafter be amended in accordance with the terms hereof, shall remain in full force and effect for a term of twenty (20) years from and after the date of recording of this Declaration, from which time they shall be automatically renewed and extended for successive periods of ten (10) years each, unless terminated or amended by an instrument executed by the Owners (based on acreage) of at least sixty-six and two-thirds percent (66 2/3%) of the Parcels, and such termination or amendment shall be recorded in the Office of the Yavapai County Recorder.

EXECUTED this 9th day of January, 1998.

TRUSTEE:
FIRST AMERICAN TITLE INSURANCE CO.
As Trustee, Trust No. 8346

DECLARANT:
ARIZONA LAND & RANCHES INC.,
an Arizona corporation

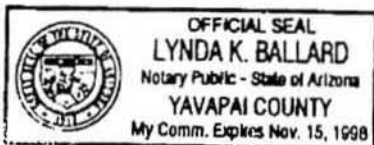
By: [Signature]
Its Trustee

By: [Signature]
GARY P. SUMNER, President

This instrument was acknowledged before me this 9th day of Jan, 1998 by Gary P. Sumner as president of Arizona Land & Ranches, Inc.

[Signature]
Notary

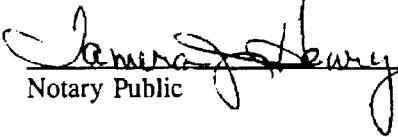
My commission expires:



STATE OF ARIZONA)
) ss.
County of Yavapai)

This instrument was acknowledged and executed before me this 13th day of JANUARY, 1998 by ROGER A. YEDINAK who acknowledged to be the Assistant Trust Officer for FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE and as such officer, being authorized so to do, signed the name of the corporation as such officer.

My Commission Expires:



Notary Public

