

DECLARATION OF RESTRICTIVE COVENANTS
OMEGA PROPERTIES SUBDIVISION NO.5: A
SUBDIVISION IN RICH COUNTY, UTAH

This Declaration of Restrictive Covenants made this 22nd day of April, 1976, by OMEGA PROPERTIES, a Utah limited partnership.

WITNESSETH:

WHEREAS, OMEGA PROPERTIES, a Utah limited partnership (hereinafter sometimes referred to as "Omega"), successor in interest to SWEETWATER PARK, a Utah corporation, is the owner of the following-described real property situated in Rich County, State of Utah:

All of Omega Properties Subdivision No. 5, according to the official plat thereof on file in the office of the County Recorder of Rich County, State of Utah.

WHEREAS, Sweetwater Park is the successor in interest to Sweetwater Incorporated which was the surviving corporation of a merger between Bridgerland Beaches Incorporated and Bridgerland Incorporated, and between Sweetwater Incorporated and Bridgerland Ranches, Inc.; and

WHEREAS, Omega Properties Subdivision No. 5 is a part of a larger recreational development known as Sweetwater Park at Bear Lake, situated in Rich County, State of Utah (hereinafter sometimes referred to as the "Development"), which includes several subdivisions, a golf course, beach resort, marina and other resort and recreational facilities; and

WHEREAS, Omega has subdivided the land and Omega Properties Subdivision No. 5 into lots, streets and common areas, as designated in said plat of Omega Properties Subdivision No. 5, and desires to place certain covenants and restrictions on said land as part of a plan for the improvement and benefit of Omega Properties Subdivision No. 5

(hereinafter sometimes referred to as the “Subdivision”) and the Development, and for the protection and benefit of Omega and any and all future owners of interests in said real property.

NOW, THEREFORE, the following covenants, restrictions, reservations and requirements are hereby created and declared to be covenants running with the land above described, and the undersigned Omega, owner of said land, does hereby declare that the above-described land is to be held and conveyed subject to the covenants, restrictions, reservations and requirements hereinafter provided.

I.

LOTS

A. Each and every lot in the Subdivision is hereby designated as a residential lot and no structures shall be placed, erected, altered, constructed or permitted on any such lot and no use shall be made of any such lot or any structures thereon except as provided herein.

B. The lots within the Subdivision will be a minimum of 12,000 square feet in size. Lots may not be further subdivided by Omega or by the owners thereof and no owner shall have the right to sell or convey less than a full-size lot, as recorded.

C. The following requirements shall apply to all dwellings placed, erected or constructed on any lot in the Subdivision:

1. No dwelling shall be erected, placed, altered or permitted to remain on any lot other than one detached single-family dwelling and private garage not to exceed twenty-eight (28) feet above the lowest finished grade elevation contiguous to the dwelling.

2. All structures shall be completed on the exterior within sixteen (16) months from the start of construction including the application of paint, stain or varnish.

3. All dwellings shall be set on permanent foundations or, if necessary, on piers, if approved by the Planning Committee.

4. No dwelling shall be higher than two (2) stories from any one elevation.

5. All structures must be set back not less than (a) thirty (30) feet from any street line, (b) thirty (30) feet from any rear lot line and (c) not less than twelve (12) feet from any side line, except that no side yard shall be required for a garage located forty-five (45) feet or more from the minimum building set back line. Minimum total square footage for dwellings shall be nine hundred (900) square feet, exclusive of open porches and garages and for two story dwellings the minimum ground floor square footage shall be six hundred seventy-two (672) square feet. No structure shall be allowed to interfere with or be constructed on any natural drainage canals, swales or draws.

6. Notwithstanding the foregoing, if one dwelling is to be placed on two or more lots owned and to be used by the same individuals, the side line set back may be waived by the Planning Committee.

7. No dwelling shall be occupied until plumbing and electrical work are substantially completed, including private inside bathroom facilities.

D. The Planning Committee.

1. No building or other structures shall be placed, erected or constructed on any lot in the subdivision without the prior written approval of the Planning Committee. No modifications, alterations or additions in excess of Five Hundred Dollars (\$500.00) (fair market value) may be made to any lot in the Subdivision without the prior written approval of the Planning Committee.

2. The Planning Committee shall be composed of four (4) persons, one of whom shall be an architect Licensed in the State of Utah and appointed by Omega, one of whom shall be an engineer licensed in the State of Utah and appointed by Omega, one of whom shall be an officer or designee of Omega and one of whom shall be a representative of the Sweetwater Park Gold Course Homeowners' Association, Inc.

3. All persons desiring to place, erect or construct a building or structure on any lot in the Subdivision or desiring to alter, amend or add to any existing building or structure within the Subdivision shall submit a written application for approval of such improvement to the Planning Committee and in connection therewith shall submit complete plans and specifications for the proposed improvement or improvements, together with a reasonable processing fee of Fifty Dollars (\$50.00), showing the following:

- a. An overall view of the proposed improvement or improvements.
- b. The location of said improvement or improvements on the proposed improvement or improvements relative to other improvements on said lot.
- c. Floor plans of each floor level.
- d. The basic structural system of the improvement or improvements and the materials to be used in the construction thereof.
- e. Elevations.
- f. Provision for temporary and permanent parking of vehicles in connection with use of the facility.
- g. Design and layout of proposed sewage disposal facilities.
- h. Proposed time schedule for construction to completion.
- i. A survey acceptable to the Planning Committee locating lot corners and the proposed building position.

4. The Planning Committee shall not give its consent to the proposed improvement unless; in the opinion of the Planning Committee, the improvement is properly designed and the design, contour, materials, shapes, colors and general character of the improvement shall be in harmony with existing structures on the lot and on neighboring lots, and in harmony with the surrounding landscape, and the improvements shall be designed and located upon the lot so as to minimize the disruption to the natural land, forms and vegetation cover.

5. The Planning Committee shall have the right to disapprove any application in the event said application and the plans and specification submitted therewith are not of sufficient detail, or are not in accordance with the provisions herein set forth, or if the design or construction of the proposed improvement is not in harmony with neighboring improvements and the general surroundings, or if the design and the plans for construction do not include sufficient safeguards for preservation of the environment or for any other reason the Planning Committee may deem in the best interests of the Subdivision.

The decision of the Planning Committee shall be final, binding and conclusive on all of the parties affected.

E. Mobile homes, trailers, temporary houses, tense and similar structures and vehicles may not be placed on or erected upon any lot.

F. Omega reserves the right to change at any time the bounds and area of any lot owned by it provided such change does not adversely affect the access to any lot sold to a third party, and that such change has been approved and is in accordance with the various county, state and/or federal regulations controlling this subdivision.

II.

USE OF LOTS

Lots shall be used for residential purposes and purposes normally incident to residential occupancy and any other use including, but not limited to the following, shall be prohibits:

A. No commercial trade or business may be conducted on any lot in the subdivision.

B. No advertising signs or structures may be placed on any lots.

C. No obnoxious or offensive or illegal activities or conduct shall be carried on upon any lot nor shall anything be done thereon which shall constitute an unreasonable annoyance or nuisance to occupants of other lots.

D. Owners of occupied or unoccupied lots shall at all times keep and maintain their property in an orderly manner and all rubbish, trash, debris or garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon. No unregistered vehicle, unless garaged, shall be allowed in the Subdivision.

E. Any dwelling, garage, stable or other structure by which is destroyed or damaged in whole or in part by fire, windstorm or for any other reason, must be rebuilt or all debris removed and the lot restored to a slightly condition with reasonable promptness.

F. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose, and are restricted to owner's property or on leash under handler's control.

III.

COVENANTS TO RUN WITH LAND

The covenants and restrictions herein set forth shall run with the land described above and be binding on all persons claiming any interest in the lots or any part thereof for a period of fifteen (15) years from the date hereof, at which time said covenants and restrictions shall be automatically renewed for successive periods of ten (10) years unless by vote of a majority of the then owners of said lots, voting as hereinafter provided, it is agreed to change said covenants and restrictions in whole or in part.

IV.

SEWAGE, WATER AND UTILITIES

A. **Sewage.** Sewer lines shall be supplied by Omega to a point adjacent to each lot on any part of the road or on easement lines indicated on the Subdivision Plat, and the owner of each lot shall be required, at said owner's expense, to install pipelines connecting the dwelling on the owner's lot to such a point. Sewer lines shall be supplied to the connection point to an owner's lot, as shown by the easement lines on the subdivision Plat, by December 31, 1980, or within thirty (30) days after an approved building permit issued by Rich County, Utah, is supplied to Omega by said lot owner, whichever is the last to occur. Sewer lines shall be accepted and used by said owner in conformity with all rules and regulations as may be accepted by Omega or any other proper authority. The lot owner shall be required to pay to Omega a reasonable sewer connection fee of Two Hundred Fifty Dollars (\$250.00) per connection.

B. **Water.** Culinary water shall be supplied by Omega to a point adjacent to each lot on any part of the road or on easement lines indicated on the Subdivision Plat, and the owner of each lot shall be required, at said owner's expense, to install pipelines connecting the dwelling on the owner's lot to such a point. Culinary water shall be supplied to the connection point to an owner's lot, as shown by the easement lines on the Subdivision Plat, by December 31, 1980, or within thirty (30) days after an approved building permit issued by Rich County, Utah, is supplied to Omega by said lot owner, whichever is the last to occur. Water shall be accepted and used by said owner in conformity with all rules and

regulations as may be adopted by Omega or any other proper authority. Outside use will be prohibited except for emergency use in starting trees and shrubs.

C. **Electricity.** Electricity shall be supplied by Omega to certain points within the Subdivision as shown by the easement Lines on the Subdivision Plat, and the owner of each lot shall be required to install, at said owner's expense, such lines as are necessary to connect the dwelling on the owner's lot to such a point. Electricity shall be supplied to the connection point to an owner's lot, as shown by the easement lines on the Subdivision Plat, by December 31, 1980, or within thirty (30) days after approved building permit, issued by Rich County, Utah, is supplied to Omega by said lot owner, whichever is the last to occur. All electricity lines must be installed underground, including the lines from the connection point, as shown by the easement lines on the Subdivision Plat, to the owner's dwelling.

D. **Other Public Utilities.** All public utilities, including electric power, telephone communication and natural gas (if any), shall be used by the individual owners under the rules and regulations prescribed by the company furnishing the public utility when and as said public utility is made available to each lot owner.

V.

BASEMENTS

A. Easements for the installation of transmission lines, pipelines and certain rights-of-way are shown on the Subdivision Plat.

B. Omega reserves for itself and its successors and assigns an easement for water drainage in all drainage swales and drainage courses to the extent that surface runoff from the roadways and adjacent lands will be permitted to go across said areas.

C. Omega reserves for itself and its successors and assigns the right to enter upon any lot to construct and maintain public utilities and improvements, pipes, poles, wires, etc., whether underground or above ground, so long as such construction and maintenance does not hinder or prevent the construction of buildings on any lots.

VI.

**OWNERSHIP USE AND ENJOYMENT OF PARKS AND RECREATIONAL
AMENITIES AND COMMON AREAS**

A. All golf courses, parks, recreational facilities and other amenities within the Subdivision or Development are private and shall be for the use and benefit of the owners of lots in Omega Properties Subdivision No. 5 and for the owners of lots in other subdivisions within the Development and other classes of persons as determined by such rules and regulations as may be established from time to time by Omega or Sweetwater Park. Nothing contained herein or in the Subdivision Plat shall be deemed to create a public right to use any such facilities or amenities or to constitute a dedication of such facilities or amenities to the public. Omega and Sweetwater Park shall have the right to adopt reasonable rules and regulations, not inconsistent with the covenants contained herein, and to amend the same from time to time; relating to the use of the common areas and the recreational and other facilities.

B. The ownership of all recreation facilities and common areas in the Subdivision shall be in Omega; provided, however, at such time as Omega shall have sold ninety percent (90%) of the lots within the Subdivision, Omega shall convey any and all of the facilities designated as common areas on the plat to the Sweetwater Park Golf Course Homeowners' Association, Inc., which shall accept such conveyance.

C. Lot owners shall have access to and the right to the use and enjoyment of the golf course, beach resort, marina and other resort and recreational facilities owned by Sweetwater Park in accordance with such rules and regulations as may be established from time to time by Sweetwater Park and upon paying such dues or charges if any, as may be required by Sweetwater Park.

VII.

SWEETWATER PARK GOLF COURSE HOMEOWNERS' ASSOCIATION, INC.

A. Every person acquiring legal or equitable title to any lot in the Subdivision shall become a member of the Sweetwater Park Golf Course Homeowners' Association, Inc., a Utah non-profit corporation (hereinafter sometimes referred to as the "Association"), and shall be entitled to one (1) share of stock in said Association for each

lot for which legal or equitable title was acquired; provided, however, upon the completion of a dwelling upon a lot in the Subdivision, the owner of said lot shall be entitled to an additional two (2) shares of stock in the Association. Each lot owner covenants to be and continue to be a shareholder of the Association and to promptly, fully and faithfully comply with and conform to the Bylaws of the Association and the rules and regulations from time to time prescribed thereunder by the Governing Board of said Association or its officers and to promptly pay in full all dues, fees or assessments levied by said Association on lot owners. Transfer of title to a lot shall automatically transfer the shares of stock in the Association appurtenant to such lot to the transferee or transferees. Omega shall be regarded as the owner of all unsold lots in an approved and filed subdivision filed by it in the Development and shall be entitled to shares of stock in the Association based on said lots and shall have the full right to vote said shares. Sweetwater Park Golf Course Homeowners' Association, Inc., shall include all subdivisions of the Development on the golf course and certain other designated subdivisions.

B. The purpose of the Association shall be to promote the community welfare of the Subdivision and of the Development.

C. Omega will develop and construct a sewer system, water system and streets for the Subdivision. Upon substantial completion of the sewer lines, water lines and streets in the Subdivision, Omega shall convey and transfer such sewer lines, water lines and streets to the Sweetwater Park Golf Course Homeowners' Association, Inc., which shall accept such conveyance.

D. The Association shall be responsible for the establishment and enforcement of rules and regulations with respect to common areas within the Subdivision. After the Association has acquired title to the common areas, sewer lines, water lines and streets, it shall be solely responsible for the operation, maintenance, upkeep and repair of all such common areas, sewer lines, water lines and streets. The costs of such activities will be met by assessments levied by the Association upon the stockholders thereof. Each such assessment, when properly assessed according to rules and regulations to be established by the Association, shall be and remain a lien upon the real property of such stockholders in the Subdivision and upon the stock of such stockholders in the Association. Said lien shall continue until all assessments are fully paid or otherwise satisfied.

E. The Association shall have such powers as set forth in its Articles of Incorporation and the laws of the state of Utah, including the power to assess and collect from each member of the Association a monthly charge in an amount to be determined by the Association.

F. The lien for such assessments as may be made by the Association shall be subordinate to the lien of any mortgage or deed of trust placed upon any lot for the purpose of financing the acquisition thereof or the construction of improvements thereon.

G. Sweetwater Park entered into an Agreement with Rich County dated March 29, 1973 which provides that Rich County shall not be obligated to assume ownership or maintenance responsibilities for the water system, sewer system, surface drainage system and road system and which provides that if these systems are not maintained that Rich County shall have the right of assessment to insure that such maintenance is performed. Said Agreement is available for inspection at the offices of Sweetwater Park and the Rich County Clerk.

VIII.

PENALTY FOR VIOLATION

Omega, the Association or other entities or persons to whose benefits these restrictive covenants enure may prosecute any proceedings at law or in equity against any persons violating or attempting to violate any of the provisions hereof and may prevent such persons from committing such violations and may recover damages or seek other relief for such violations. A waiver of a breach of any of the restrictive covenants contained herein shall not be construed as a waiver of any succeeding breach or violation thereof or of any other restrictive covenant. In the event legal action is necessary to enforce any of these restrictive covenants, such as conformance to a restriction or payment of a charge, then the prevailing party shall be entitled to expenses of enforcement, including reasonable attorney's fees.

IX.

SAVINGS CLAUSE

Invalidation of any one of the covenants and restrictions herein before set forth by judgment or court order or other official decree shall in no way affect any of the other provisions hereof which will remain in full force and effect during the term hereof or any renewals or extensions thereof. Omega, its successors and assigns, reserves the right to grant a variance from these restrictions to any lot owner, when a literal enforcement thereof would work an undue hardship or prevent utilization of the best features of a lot in this Subdivision by an instrument duly recorded in the office of the County Recorder of Rich County, State of Utah. Said variance shall not conflict with any applicable county, state or federal regulation.

IN WITNESS WHEREOF, Omega Properties has caused this Declaration of Restrictive Covenants to be executed the day and year first above written.

OMEGA PROPERTIES,
a Utah limited partnership

BY SWEETWATER PARK, a Utah
Corporation, its General Partner

By: /s/ Brian C. Swinton
Brian C. Swinton, President