

After recording return to:

Robert C. Hyde  
KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 E. South Temple  
P.O. Box 45120  
Salt Lake City, UT 84145-0120

Recorded DEC 23 2004 Filing No. 64963  
At 9:10 AM/PM In Book 29 Page 342  
Fee 47.00 Debra L. Ames Rich County Recorder  
Requested by Jerry M. Place

## AMENDED AND RESTATED

### DECLARATION OF RESTRICTIONS

This AMENDED AND RESTATED DECLARATION OF RESTRICTIONS (this "Declaration") is made this 20<sup>th</sup> day of December, 2004, by IDEAL BEACH MASTER ASSOCIATION, INC., a Utah non-profit corporation (the "Master Association"), for the benefit of Rich County (the "County"), as a governmental entity and not its individual citizens, and the individual Members of the Master Association (as "Members" is defined in the Articles of Incorporation of the Master Association).

Whereas on the 25<sup>th</sup> day of October, 2004 a DECLARATION OF RESTRICTIONS was made by IDEAL BEACH MASTER ASSOCIATION wherein an inadvertent error was made in the legal description of Parcel No. 41-34-00-022

NOW THEREFORE this Amended and Restated Declaration of Restrictions is made to correct said parcel description error and supercedes and restates that certain Declaration of Restrictions dated the 25<sup>th</sup> day of October, 2004.

### RECITALS

A. The Master Association owns certain real property on the southern shore of Bear Lake, located in Garden City, Rich County, Utah (the "Property") as more particularly described on Exhibit A attached hereto.

B. The Property is owned, maintained, managed and otherwise treated by the Master Association and all of its Members, being the owners of the individual Units (as defined below), as though it were "common area" (as the words "common area" are used and defined in the Utah Condominium Ownership Act) for the following eleven (11) condominium projects (the "Condominium Projects"):

- (a) Sweetwater Beach Park Resort Condominiums (formerly known as Sweetwater Park Beach Resort Condominium Project No's. 1, 2, 3 and Sweetwater Western America Condominiums) [112 units];
- (b) Sweetwater Bear Lake Multi-Resort Condominium Facility Phase I [12 Units];
- (c) Sweetwater Bear Lake Multi-Resort Condominium Facility Phase II [12 Units];
- (d) Sweetwater Bear Lake Multi-Resort Condominium Facility Phase III [12 Units];
- (e) Sweetwater Bear Lake Multi-Resort Condominium Facility Phase IV [12 Units];
- (f) Sweetwater Bear Lake Multi-Resort Condominium Facility Phase V [12 Units];
- (g) Sweetwater Bear Lake Timeshare Project II (formerly known as Sweetwater Bear Lake Multi-Resort Condominium Facility Phase VI) [9 units]; and
- (h) Sweetwater Bear Lake Condoshare Project III [12 Units].

C. The Master Association is made up exclusively of the owners of all of the condominium units ("Units") existing in the Condominium Projects, and these owners are Members under the Articles of Incorporation for the Master Association. At the time the Condominium Projects were developed under the name of Sweetwater Park Beach Resort, only a few feet of land around each of the Condominium Projects was made common area under each project's declaration of condominium and related Record of Survey Map. The Property, which the owners of the Units at that time viewed as their amenities, contained parking lots, landscaping, beach front, swimming pools, tennis courts, marinas, and other common and typical amenities (the "Amenities"), but was retained by the developer and eventually foreclosed upon and owned by a bank. The Master Association was formed for the purpose of purchasing the Property from the bank, and holding, maintaining and managing it for the benefit of the Condominium Projects. At the time the Property was purchased from the bank, it was legally impossible or at least economically impractical to make the Property common area to each of the 11 Condominium Projects under Utah's Condominium Ownership Act, and so the Master Association was formed in such a manner so that the same result could be accomplished, which is that the Property appears and is treated, legally and otherwise, as if it were common area to the Condominium Projects. The Articles of Incorporation of the Master Association provide, among other things, that the Property cannot be sold or developed without a vote of six of the seven Trustees of the Master Association, and two-thirds of the Members. This is typical of termination provisions for any condominium project.

D. For many years the Master Association has paid property taxes on the Property, with the valuations reflecting the independent ability to own and develop the Property. At the same time, the Units have been valued, for purposes of property taxes, at the values reflected when a Unit is sold in the open market. The Master Association believes that this resulted in the value of the Property being assessed twice, since its value was reflected in the values of the Units. It is the belief of the Master Association that the values of the Units would be greatly reduced without the Amenities and the Property, and that since the Property is treated for all purposes as if it were common areas, that the Property should not have a separate valuation apart from the Units. In order to remedy this situation, the Master Association desires to record this Declaration so as to restrict the Property of record for use only as Amenities for the Units, and thereby disallow any development of the Property.

E. For the reasons set forth above and to provide specific assurance to the County and the Members that the Property will not be used for purposes other than as a "common area" for the Condominium Projects, the Master Association desires to make this Declaration and restrict the Property as set forth herein.

### RESTRICTIONS

NOW THEREFORE, based upon the foregoing, the Master Association hereby declares that the Property is and shall be subject to the following restrictions:

1. Exclusive Uses. The Property shall continue to be owned, maintained and managed by the Master Association, for the benefit of the Condominium Projects, only as Amenities. As such, the Property will be used only for parking, marinas, landscaping, beaches, open space and recreational activities including, but not limited to, swimming, volleyball, miniature golf, tennis and other similar activities.
2. Development Restriction. The Property shall not be further subdivided, and shall not be commercially developed with any residential or commercial structures (other than incidental structures related to the Amenities).
3. Rich County. The County, as a governmental body and not its individual citizens, is an express and intended beneficiary of this Declaration and as such may seek court order to enforce the terms of this Declaration.
4. Miscellaneous. This Declaration shall be governed by and construed and interpreted in accordance with the laws of the State of Utah. The signatory of this Declaration is the President of the Master Association and as such represents that his actions are in accordance with the Master Association's bylaws and Articles of Incorporation. This Declaration shall run with the land and shall be binding on successive owners of the Property. This Declaration may be amended or terminated by the affirmative vote of six of the seven Trustees of the Master Association.

IN WITNESS WHEREOF, this Declaration has been executed the day and year first above written.

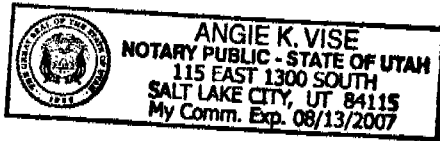
MASTER ASSOCIATION:

IDEAL BEACH MASTER ASSOCIATION, INC,  
a Utah non-profit corporation

By: J. Michael Place  
Name: J. Michael Place  
Its: President

State of Utah            )  
                                  ) ss.  
County of Salt Lake    )

This instrument was acknowledged before me this 20 day of December, 2004, by J. Michael Place, in his capacity as the President of Ideal Beach Master Association, Inc., a Utah non-profit corporation.



[Signature]  
Notary Public

Exhibit A

PARCEL NUMBER: 41-34-00-001

LEGAL DESCRIPTION  
"The Beach Properties and Amenities"

PARCEL 10:

Part of the Southeast Quarter of Section 33, and the Southwest Quarter of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, described as follows:

Beginning at a point which lies North 410.07 feet and East 335.17 feet from the Southwest Corner of said Section 34, and running thence North 71°11'00" West 1034.00 feet; thence North 20°40'00" East 918.80 feet; thence South 89°20'00" East 196.80 feet; thence North 38°38'04" East 53.70 feet; thence South 89°20'00" East 59.90 feet; thence North 26°45'00" East 205.02 feet; thence South 67°37'30" East 891.28 feet along the mean high water line of Bear Lake; thence South 67°37'30" East 597.52 feet; thence South 12°51'00" West 463.00 feet, more or less, to the Southwest corner of the Farrell-Spencer Property; thence South 74°14'00" East 700.00 feet; thence South 12°51'00" West 403.00 feet; thence North 89°20'40" West 128.00 feet; thence North 13°02'00" East 55.60 feet; thence North 67°19'06" West 254.49 feet; thence North 74°14'21" West 1013.36 feet to the point of beginning.

SUBJECT TO: a non-exclusive right-of-way for ingress and egress over the following described land:

Beginning at a point which lies North 401.54 feet and East 365.38 feet from the Southwest Corner of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, and running thence North 15°54'30" East 31.25 feet; thence North 21°41'18" East 89.38 feet; thence North 68°18'42" West 358.99 feet; thence North 21°41'18" East 28.00 feet; thence South 68°18'42" East 538.95 feet; thence South 21°41'18" West 31.00 feet; thence South 68°18'42" East 72.75 feet; thence South 21°41'18" West 24.00 feet; thence South 68°18'42" East 144.00 feet; thence North 21°41'18" East 24.00 feet; thence South 68°18'42" East 68.00 feet; thence South 21°41'18" West 6.33 feet; thence South 96°45'00" East 118.15 feet; thence North 21°41'18" East 193.75 feet; thence North 12°51'00" East 42.91 feet; thence South 77°09'00" East 20.00 feet; thence South 12°51'00" West 44.46 feet; thence South 21°41'18" West 169.71 feet; thence North 36°45'00" West 210.67 feet; thence North 68°18'42" West 154.23 feet; thence North 49°44'45" West 172.74 feet; thence North 68°18'42" West 55.96 feet; thence South 21°41'18" West 98.22 feet; thence South 15°34'00" West 80.31 feet; thence North 74°14'21" West 23.00 feet to the point of beginning.

EXCLUDING FROM PARCEL 10 AS DESCRIBED HEREIN THE FOLLOWING:

A. Part of the Southwest Quarter of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, described as follows:

Beginning at a point which lies North 647.40 feet and East 278.39 feet from the Southwest Corner of said Section 34, and running thence North 201.01 feet; thence South 68°18'42" East 123.28 feet; thence

LEGAL DESCRIPTION

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South  $21^{\circ}41'18''$  West 186.79 feet; thence North  $68^{\circ}18'42''$  West 49.00 feet to the point of beginning.

ALSO: a parcel of land that begins at a point which lies North 601.96 feet and East 214.54 feet from the Southwest Corner of said Section 34, and running thence North  $21^{\circ}41'18''$  East 40.00 feet; thence South  $68^{\circ}18'42''$  East 99.00 feet; thence South  $21^{\circ}41'18''$  West 20.00 feet; thence North  $68^{\circ}18'42''$  West 90.00 feet; thence South  $21^{\circ}41'18''$  West 20.00 feet; thence North  $68^{\circ}18'42''$  West 9.00 feet to the point of beginning.

B. Laundry Building: Part of the Southeast Quarter of Section 33, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, described as follows:

Beginning at a point which lies North 744.86 feet and West 492.39 feet from the Southeast Corner of said Section 33, and running thence North  $71^{\circ}11'00''$  West 75.04 feet; thence North  $20^{\circ}40'00''$  East 122.42 feet; thence South  $69^{\circ}20'00''$  East 75.00 feet; thence South  $20^{\circ}40'00''$  West 120.00 feet to the point of beginning.

C. Manager's Home: Beginning at a point which lies North 26.83 feet and East 1545.44 feet from the Southwest corner of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, and running thence North  $67^{\circ}19'06''$  West 123.62 feet; thence North  $22^{\circ}40'54''$  East 90.00 feet; thence South  $67^{\circ}19'06''$  East 108.32 feet; thence South  $13^{\circ}02'00''$  West 91.29 feet to the point of beginning.

D. Sales Office Beach Resort: Part of the Southwest Quarter of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, and described as follows:

Beginning at a point which lies North 493.94 feet and East 89.03 feet from the Southwest Corner of said Section 34, also said point of beginning being on a approximate North right-of-way line of State Highway No. 3, and running thence North  $71^{\circ}11'00''$  West 100.00 feet; thence North  $18^{\circ}49'00''$  East 120.00 feet; thence South  $71^{\circ}11'00''$  East 100.00 feet; thence South  $18^{\circ}49'00''$  West 120.00 feet to the point of beginning. ~~299-288-299~~ Sweetwater Park Condominium Projects No. 1, 2, and 3.

F. All Sweetwater Park Multi-Resort Condominium Facilities Phase I, Phase II, Phase III, Phase IV, Phase V, and Phase VI.

G. All of Sweetwater, Inc., Condominium Project III, as shown by the official plat of said subdivision filed September 17, 1979 as Filing No. 221,093 in Book 13 at Page 297 in the office of the Recorder of Rich County, Utah.

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LEGAL DESCRIPTION  
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N. All of the Units and Common areas in that certain condominium project known as Sweetwater Western America Condominiums as established and identified in that certain Declaration of Condominium for Sweetwater Western America Condominiums filed in the office of the County Recorder for Rich County, Utah, on the 5th day of October 1979, as Entry No. F21,197 in Book 13 at Page 544 and in that certain First Amended Record of Survey Map of Sweetwater Western America Condominiums filed in the office of the County Recorder for Rich County, Utah, on the 5th day of October, 1979 as Entry No. F21,196 in Book 13 at Page 542.

The afore-described condominium project is created and located upon AN UNDIVIDED 3/8 INTEREST as tenants in common, in and to part of the Southwest Quarter of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, described as follows:

Beginning at a point which lies North 629.29 feet and East 324.45 feet from the Southwest Corner of said Section 34, and running thence North 21°41'18" East 115.00 feet; thence South 68°18'42" East 136.99 feet; thence South 21°41'18" West 115.00 feet; thence North 68°18'42" West 136.99 feet to the point of beginning.

The afore-described condominium project includes the following two easements: A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED LAND:

Beginning at a point which lies North 401.54 feet and East 365.58 feet from the Southwest Corner of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, and running thence North 15°54'30" East 81.52 feet; thence North 21°41'18" East 89.38 feet; thence North 68°18'42" West 113.99 feet; thence North 21°41'18" East 26.00 feet; thence South 68°18'42" East 136.99 feet; thence South 21°41'18" West 114.22 feet; thence South 15°54'30" West 80.31 feet; thence North 74°14'21" West 23.00 feet to the point of beginning.

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED PARCEL OF LAND:

Beginning at a point North 629.9 feet and East 324.45 feet from the Southwest Corner of Section 34, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, and running thence North 21°41'18" East 91.51 feet; thence South 68°18'42" East 31.99 feet; thence South 21°41'18" West 34.35 feet; thence North 68°18'42" West 8.75 feet; thence North 21°41'18" East 25.60 feet; thence North 68°18'42" West 14.95 feet; thence South 21°41'18" West 72.76 feet; thence North 68°18'42" West 8.29 feet to the point of beginning.

END OF EXCLUSIONS FROM PARCEL 10.

**PARCEL NUMBER: 41-340-0026**

Part of the Southwest Quarter of Section 34, Township 14 North, Range 5 East, Salt Lake Base and Meridian, described as follows:

Beginning at a point (an existing fence corner) which lies North 562.15 feet and East 1076.29 feet from the Southwest Corner of said Section 34 and running thence North  $12^{\circ}51'00''$  East 303.10 feet; thence North  $21^{\circ}50'03''$  East 11.09 feet; thence South  $68^{\circ}09'57''$  East 12.50 feet; thence North  $21^{\circ}50'03''$  East 30.77 feet; thence North  $68^{\circ}09'57''$  West 9.10 feet; thence North  $21^{\circ}50'03''$  East 11.04 feet; thence North  $68^{\circ}09'57''$  West 11.76 feet; thence North  $12^{\circ}51'00''$  East 106.33 feet; thence South  $74^{\circ}23'46''$  East 45.00 feet; thence South  $14^{\circ}01'13''$  West 123.09 feet; thence South  $65^{\circ}46'47''$  East 20.00 feet; thence South  $14^{\circ}54'39''$  West 336.44 feet to an existing fence; thence North  $74^{\circ}24'00''$  West 50.00 feet along said fence to the point of beginning.

Together with the following described right of way.

Beginning at a point (an existing fence corner) which lies North 562.15 feet and East 1076.29 feet from the Southwest Corner of said Section 34 and running thence South  $74^{\circ}24'00''$  East 50.00 feet along said fence; thence South  $14^{\circ}54'39''$  West 30.00 feet; thence North  $74^{\circ}24'00''$  West 48.92 feet; thence North  $12^{\circ}51'00''$  East 30.03 feet to the point of beginning.



PARCEL NUMBER: 41-340-0022

Legal Description

Part of the Southeast Quarter of Section 33, Township 14 North, Range 5 East of the Salt Lake Base and Meridian, described as follows:

Beginning at a point which lies North 744.86 feet and West 492.39 feet from the Southeast Corner of said Section 33, and running thence North  $71^{\circ}11'00''$  West 75.04 feet; thence North  $20^{\circ}40'00''$  East 122.42 feet; thence South  $69^{\circ}20'00''$  East 75.00 feet; thence South  $20^{\circ}40'00''$  West 120.00 feet to the point of beginning. (41-34-00-022)