

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

**DECLARATION
OF
COVENANTS, CONDITIONS,
RESERVATIONS AND RESTRICTIONS
OF**

SWEETWATER FOREST SUBDIVISION PHASE I

WHEREAS, SWEETWATER LAND DEVELOPMENT COMPANY, L.L.C., the owner of all that certain tract of land in Brazos County, Texas, which tract is described as SWEETWATER FOREST SUBDIVISION as per the plat of such subdivision recorded in Volume 4267, Page 259, Official Records of Brazos County, Texas; and

WHEREAS, SWEETWATER LAND DEVELOPMENT COMPANY, L.L.C. desires to create and provide for the development, improvement and maintenance of said SWEETWATER FOREST SUBDIVISION PHASE I for the mutual benefit and pleasure of the present and future property owners in such Subdivision, and to protect the property values within such Subdivision by imposing upon and against all the designated lots therein the covenants, reservations, restrictions and other provisions hereinafter set forth;

NOW THEREFORE, SWEETWATER LAND DEVELOPMENT COMPANY, L.L.C. does hereby make, adopt and establish the following reservations, restrictions, declarations, easements, limitations, charges, agreements, covenants, conditions and stipulations, each of which shall be applicable to SWEETWATER FOREST SUBDIVISION PHASE I according to the map or plat filed of record in the office of the County Clerk of Brazos County, Texas in Volume 4267, Page 259, Official Records of Brazos County, Texas.

**I.
DEFINITIONS**

The following words when used in this instrument shall have the following meanings:

1. **"Sweetwater"** shall mean Sweetwater Land Development Co., L.L.C., its successors and assigns.
2. **"Subdivision"** shall mean Sweetwater Forest Subdivision Phase I as per the plat recorded in Volume 4267, Page 259, Official Records of Brazos County, Texas, together with any other tracts or parcels of land Sweetwater brings under the scheme of this Declaration.
3. **"Recording Date"** shall mean the date upon which this document is filed of record with the County Clerk of Brazos County, Texas.
4. **"Lot" or "Parcel"** shall mean those plots of land shown on the map or plat of the Subdivision filed of record with the Clerk of Brazos County, Texas, with the exception of those plots of land designated as Reserve Tracts, and reservations herein after made.
5. **"Owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities of the fee simple title to any lot in the Subdivision, or any part or interest therein, but shall not mean or refer to any mortgagee, under any applicable theory of mortgage, unless and until such mortgagee has acquired legal title pursuant to

foreclosure or any proceeding in lieu of foreclosure. The term "Owner" shall further include any person or entity claiming title to any lot or portion thereof by adverse possession, any person or entity leasing, renting or otherwise occupying any lot or part thereof, and any person or entity claiming interest in a lot or part thereof under a contract of sale.

6. **"Committee"** shall mean the Architectural Control Committee established under the provisions of this document, its successors and assigns.
7. **"Association"** shall mean and refer to Sweetwater Forest Homeowners Association of Brazos County, Inc., a Texas non-profit corporation, provided for in this document, its successors and assigns.
8. **"Common Areas"** shall mean all real property and personal property owned by the Association for the common use and enjoyment of the Owners (and Associate Members).
9. **"City"** shall mean the City of College Station, Texas.

II. RESERVATIONS

A. In so authenticating said map or plat for record and in so dedicating the use of the streets whether such streets are referred to as drives, avenues, roads, lanes, ways, boulevards or streets) as shown thereon to the public for ordinary roadway purposes only, there was reserved and there is hereby expressly reserved in SWEETWATER the following rights, titles and easements (hereinafter collectively called "Reservations"), which Reservations shall be referred to as a part of and construed as being adopted in each and every contract of sale, deed or instrument of conveyance executed or to be executed by or on behalf of SWEETWATER conveying any property in the Subdivision or any part thereof:

1. The legal and fee simple title in and to each and all of said streets as shown on said map or plat is hereby reserved in SWEETWATER subject to the limited dedication of the use of streets, not marked as private by the letters "Pvt", to the public for ordinary roadway purposes only.
2. SWEETWATER reserves for itself, its successors and assigns, a perpetual nonexclusive easement to lay, construct, operate, maintain, inspect, repair, reconstruct, multiply, change the size of and remove such water, sanitary sewer and storm and gas pipes, water and gas mains and conductors and all appurtenances thereto pertinent to the operation of waterworks, sanitary sewer, storm sewer and drainage systems as it or they may from time to time desire, in, along, under, over, across and through all of the streets, both public and private, in the Subdivision. Such pipes, mains, conductors, lines, wires, conduits and appurtenances shall be buried to such reasonable depths as will not interfere with the use of the streets for ordinary roadway purposes.
3. SWEETWATER reserves for itself, its successors and assigns, title in and to all water, sanitary sewer, storm sewer, drainage and gas pipes, mains, conductors, and all appurtenances thereto and all electric distribution and communication lines, wires, conduits and all appurtenances thereto constructed by SWEETWATER or its agents in all of said streets in the Subdivision, together with a perpetual easement to operate, maintain, inspect, repair, reconstruct, change the size of and remove such pipes, mains, conductors, lines, wires, conduits and appurtenances thereto, as it or they may from time to time desire.
4. SWEETWATER reserves for itself, its successors and assigns, a perpetual utility easement in, along, under, over, across, and through a ten (10) foot strip around the

entire perimeter of each parcel in the Subdivision, which strip shall be measured from the property line of each parcel inward. With respect to such easement, SWEETWATER shall have the right to construct, operate, maintain, inspect, reconstruct, multiply, change the size of and remove such utility lines and facilities (including without limitations of the generality thereof, water, sanitary sewer, storm sewer, drainage and gas pipes, mains, conductors and all appurtenances thereto and electric distribution and communication lines, wires, conduits, guy wires, poles, connections and all appurtenances thereto), as it or they may from time to time desire, together with the right of ingress and egress thereto. The utility easements hereby reserved are easements ten (10) feet wide at and below normal ground level and extending upward to a plane twenty (20) feet above the ground, and from said plane and easements twenty feet wide, extending five feet in width adjacent to and on both sides of the utility easements on each parcel. SWEETWATER further reserves the exclusive right to grant franchises and easements to other utility owners to lay, construct, operate, maintain, inspect, reconstruct, change the size of, multiply and remove such utility lines, as described above, in such utility easements. Such utility easements are not dedicated to the public in any manner.

SWEETWATER further reserves for itself, its successors and assigns, a perpetual drainage easement that shall be coextensive with the above described ten (10) foot utility easements.

SWEETWATER further reserves for itself, its successors and assigns, a perpetual electrical utility easement located along all streets, both public and private, in the Subdivision; said electrical easement shall be ten feet wide at ground level and extend upward to a plane twenty (20) feet above the ground and from said plane and upward the easement is twenty (20) feet wide.

5. SWEETWATER reserves for itself, its successors and assigns the right to make minor changes in and additions to the utility easements heretofore described for the purposes of more efficiently and economically installing the improvements.
6. The conveyance by SWEETWATER of any parcel in the Subdivision by contract, deed or other instrument of conveyance shall not in any event be held or construed to include any of the rights, titles and easements heretofore reserved in any of the foregoing paragraphs, nor the title to water, gas, sanitary sewer, storm sewer, drainage, electric light, poles or conduits, pipes, mains, or any other utility or appurtenances thereto constructed by its agents, in, along, under, through, over, across or upon such easements of such property, or any part thereof, or any other Phase of the Subdivision. The right to sell and lease or otherwise transfer all such rights, titles, easements, utilities and appurtenances is expressly reserved in SWEETWATER. The transfer may be made to the Sweetwater Forest Homeowners Association of Brazos County, the City, public utility or such other third parties as SWEETWATER may desire.

B. The foregoing reservations of rights and easements shall not obligate SWEETWATER to exercise any of such reserved rights and easements.

C. The invalidity, abandonment or waiver of any one or more of the foregoing Reservations, or any sentence, clause or part thereof shall not affect the remaining Reservations or sentences, clauses or parts thereof, which shall remain in full force and effect.

III. RESTRICTIONS

For the purpose of creating and carrying out a uniform plan for the parceling and sale of the Subdivision as a district set aside for residential homes and certain other uses accessory thereto, the following restrictions, including without limitation restrictions, covenants, declaration, easements,

limitation, charges, agreements, and conditions (hereafter collectively called the "Restrictions"), are hereby established and adopted to apply uniformly to use, occupancy and conveyance of all the parcels in the Subdivision. Every contract, deed or conveyance which may be hereafter executed with regard to any of the property in the Subdivision shall be conclusively deemed to have been executed, delivered and accepted subject to the following Restrictions, even if the Restrictions are not set out in full and are not incorporated by reference in such contract of sale, deed, lease or other transfer of and interest in such parcel.

A. BUILDING AND CONSTRUCTION RESTRICTIONS

1. Except as herein otherwise provided, each parcel in the Subdivision except a reserve area shall be used only for non-commercial residential and recreational purposes. Only single family residential dwellings and appurtenances ordinary to residential living shall be permitted. All appurtenances shall also require the approval of the Committee. To this end, without limitation, the following structures may not be built on any parcel in the Residential portion of the Subdivision; hospitals, clinics, rest homes, duplex houses, apartment houses, garage apartments, mobile homes, hotels, or any retail, wholesale, or other business or commercial establishments of any kind. Notwithstanding the above, consulting or similar in-home business activities that have limited customer activity shall be allowed. The Committee shall have the right and power to stop or restrict any such in-house business activity if the Committee determines in its sole discretion that the business or activity is detrimental to the Subdivision.
2. No residence shall be constructed on any parcel that has an under-roof living area, excluding porches, garages, patios and the like, of less than 3,000 square feet.
3. Only one single family dwelling and appurtenances thereto such as garages, outbuildings, barns, and the like, may be placed or constructed on each of the parcels as platted as of the recording date; provided, however, that one, and no more than one, single family dwelling and its appurtenances may be placed or constructed within each subdivided lot.
4. No building or structure except fences may be located on any parcel nearer to the front of the property line than fifty (50) feet, or nearer to either side of the property line than fifty (50) feet or the back property line than fifty (50) feet. The front side of the parcel is that side which abuts a street. Parcels that abut on two streets shall be deemed to front on both streets.
5. Drainage structures where required under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without back water, and shall be constructed of reinforced concrete pipe of the diameter and length as approved by the Committee and the City. The Committee retains the right to require all drive way culverts to be a uniform design for all lots in the Subdivision. All driveways shall be constructed of concrete or asphalt construction.
6. No building material of any kind or character shall be placed or stored upon any parcel more than 30 days before construction of a building or improvements are commenced, and then such material shall be placed within the building lines as established above. At the completion of such building or improvements, such excess or scrap material must be immediately removed from the premises.
7. No stumps, trees, underbrush or any refuge of any kind or scrap material from improvements being erected on any parcel shall be placed on any other parcel, or on streets or easements nor may they be burned on site without written approval of the Committee and the City.

8. Exposed openings resulting from any excavation made on any parcel shall be backfilled and the disturbed ground shall be leveled. No change of elevation on any parcel greater than five (5) feet shall be made without the approval of the Committee.
9. No residential dwelling shall be built without a State of Texas approved septic tank or other sewage disposal system that is so approved.
10. Underground electric service may be available to parcels in the Subdivision. If such service is made available to a parcel and owner of such parcel desires to use such service, such owner shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local government authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on such owner's structure to the point of attachment at the electric company's energized secondary junction boxes, said point of attachment to be made available by the electric company at a point designated by the electric company furnishing service shall make the necessary electrical connection at said point of attachment and at the meter. In addition, such owner shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the current standards and specifications of the electric company furnishing service) for the location and installation of the meter of the electric company furnishing service to the residence constructed on such owner's parcel. For so long as underground service is maintained, the electric service to each parcel shall be uniform and exclusively of the type known as single phase 120/240 volt, 3 wire, 60 cycle alternating current.
11. All outside construction of any Residence must be composed of at least seventy five percent (75%) masonry material unless a variance is granted in writing by the Committee.
12. The color scheme, design, height, configuration and location of all structures including, but not limited to, residences, garages, outbuildings, and the like located on a lot shall be subject to the approval of the Committee, which approval may be denied if the Committee is of the opinion that such color scheme, design, height, configuration or location will be detrimental to the Subdivision or an adjoining lot or parcel.
13. All mail boxes must be the standard design approved by the Committee and must be encased with brick or other masonry material with such color and material also being subject to the approval of the Committee.
14. All satellite disc and/or antennae or towers must not be visible from any street or from another Lot within the Subdivision unless prior written approval is granted by the Committee.
15. No above ground swimming pools will be allowed; provided, however, spas will be allowed with prior written approval of the Committee. The Committee shall have the right to approve the design, location and material.

B. GENERAL RESTRICTIONS

1. No noxious or offensive trade or activity shall be carried on upon any parcel nor shall anything be done which may be or become any annoyance or nuisance to the Subdivision.
2. No commercial activity of any kind shall be conducted on any lot within that portion of the Subdivision affected by this declaration; "Commercial Activity" shall include but not be limited to, the offering for sale of any product or service, or the manufacturing or growth of any product, for purposes of sale, without regard to whether such activities are conducted in or from residential dwellings or otherwise.

3. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot within the Subdivision for commercial purposes. Each parcel shall be allowed one animal unit (au) per acre or fraction of an acre. One animal unit (au) is defined as set forth below:

$$1 \text{ dog or cat} = 1/4 \text{ au}$$

- There will be no swine or other animals allowed in the Subdivision except dogs and cats. No animals including dogs and cats will be allowed to roam free in the Subdivision. In the event any animal creates a nuisance to the subdivision in the sole and exclusive opinion of the Committee such animal will be removed from the Subdivision. SWEETWATER or members of the Committee shall have the right to enter and remove any such animal which is placed on any parcel in violation of this Section, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.
4. No signs, except signs advertising property for sale or rent (not exceeding 5 square feet in size), advertisement billboard, or advertising structure of any kind may be erected or maintained on any parcel without the consent in writing of the Committee. SWEETWATER or members of the Committee shall have the right to enter and remove any such sign, advertisement or billboard or structure which is placed on any parcel without such consent, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.
 5. No part of the Subdivision shall be used or maintained as dumping grounds for rubbish. Trash, garbage or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
 6. Owners shall not permit the accumulation of trash, rubbish, weeds, or other unsightly obstacles on their parcels or on the easements or on the alley or the streets abutting the same. Each Owner shall be responsible for proper disposition of his or her trash and garbage. Owners shall keep the drainage easements free of obstructions. In the event a lot is not maintained in a manner that lends itself to an attractive appearance (failure to mow weeds, remove dead trees, or similar maintenance) the Committee, at its discretion, may have such items removed and the owner of such lot shall be responsible for the cost of such removal.
 7. After commencement of construction of any structure or improvement, the work thereof shall be diligently prosecuted to the end so that the structure or improvements shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof and a portable rest rooms provided by Owner or Owners contractor will be used.
 8. All fencing within view of any road in the Subdivision or of an adjoining lot shall be of such size, design, material and color as is specifically approved by the Committee. Absolutely no chain link fences will be allowed in the Subdivision except for dog pens or enclosures which are not visible from any road or adjoining lot in the Subdivision. All fences along property lines that are adjacent to streets or roads shall be of standard design, color, location, height and material as determined by the Committee.
 9. No act may be performed which is likely to pollute the air or water in any part of the Subdivision, nor may any property owner violate any ordinance designed to eliminate pollution at that time in force whether it be State, County or City.

10. No firearms or fireworks may be discharged in the Subdivision or on any parcel, easements or common area. No hunting of any kind will be allowed.
11. No boats, jet skis, motor homes, travel trailers, or tractors will be parked in excess of twenty four (24) consecutive hours in a location that such items are visible from an adjoining street or adjoining lot.
12. The Association shall have the right to restrict and/or prohibit the use of motorcycles, four-wheelers, go-carts, all terrain vehicles and similar modes of transportation on the Common Areas, City right-of-ways, or public and private easements located within the Subdivision.
13. Representatives of SWEETWATER, the Association, or the Committee may from time to time at any reasonable hour, enter and inspect any part of the Subdivision to ascertain compliance with this document or any amendments hereto.
14. It is specifically understood and agreed that membership or ownership in the Association shall remain, inseparable from the ownership in a Lot and that such ownership or membership in Association may not be conveyed by the owner or owners of any property in a Lot in a like manner conveyed.
15. No oil or gas drilling, development, refining, quarrying or mining operations of any kind shall be permitted on the surface of any lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted on the surface of any lot. No derrick or other structures designed for use in boring or drilling for oil, natural gas, or other mineral shall be erected, maintained or permitted on any lot. This paragraph does not prohibit the pooling of the Subdivision with other property or drilling of horizontal or slant hole wells which do not interfere with the use of the surface of the Subdivision.

IV. ARCHITECTURAL CONTROL

A. There is hereby created the Architectural Control Committee which shall consist of three (3) members. The initial Architectural Control Committee is composed of:

Charlie Burris

Fain McDougal
Janie McDougal

A majority of the Architectural Control Committee may designate representatives to act for it. In the event of the death or resignation or failure to serve by any member of the Committee, the remaining members or member shall have full authority to designate a successor, or if they cannot agree on a successor, SWEETWATER or its successors and assigns, shall designate a successor. Neither the members of the Committee nor its appointed representatives shall be entitled to any compensation for services rendered pursuant to this covenant. After fifteen (15) years from the date of this instrument, or at such earlier time as the majority of the Committee shall determine the power to designate members of the Architectural Control Committee will automatically pass to the Association. The Committee's approval or disapproval as required by the Restrictions shall be in writing.

B. No improvement of any kind shall be erected, placed or altered in the exterior design after being erected or placed on or attached to any parcel in the subdivision until the construction plans, landscaping plans, or other plans, specifications and a plot plan showing the location and size of such improvement has been submitted to the Committee, or its designated representatives as to the harmony of external design with the existing structures on parcels in the subdivision, as to type or exterior materials and exterior paint colors, as to quality of workmanship and materials, and as to locations with respect to topography and finish ground elevations, and compliance with all applicable provisions of this document, and general compatibility within the subdivision.

Improvements as used herein shall be held to include, but not limited to, building, fences, towers, radio and television satellites, antennas, porches, decks, walls, swimming pools, water wells, playground equipment, outdoor cooking or eating facilities of a permanent nature, cages, sheds, streets, alleys, excavation and other earth movement. The Committee may require a reasonable fee for performing the functions herein prescribed and may disapprove plans, specifications, designs, and plot plans for failure to pay such fee. Such fees shall be used by The Committee to discharge actual expenses incurred by the Committee. After approval in writing has been given, the erecting, placing or altering of the improvements on any parcel shall be made only in accordance with the approved plans, specifications and plot plans, unless variations or changes are also approved in the same manner. The Architectural Control Committee, in its discretion, may exercise the limited right to approve minor deviations in building area, location, facing of dwellings and setbacks in instances where, in its opinion, such deviation will result in a more commonly beneficial use. Such approval shall be filed in the Official Records of Brazos County, Texas, and when so given and filed, shall be deemed to become a part of these Restrictions.

C. Neither SWEETWATER the members of the Architectural Control Committee or its representative, their successors or assigns, shall be liable in damages to anyone submitting plans to them for approval, or to any owner or lessee of any parcel affected by these Restrictions, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans submitted. Every person who submits plans to the Committee for approval agrees by submission of such plans, and every owner or lessee of any parcel within the property agrees, by acquiring title thereto or interest therein, that he will not bring any action or suit against SWEETWATER, the Association, or the members of the Architectural Control Committee, or its representatives, to recover any damages.

At the option of a majority of the Committee, all of the powers, rights, duties and responsibilities of said Committee may be transferred to the Association; in such event the Association shall appoint a representative or representatives to perform all functions of the Committee. Said representative or representatives shall be the successor of the Committee.

V.

SWEETWATER FOREST HOMEOWNERS ASSOCIATION OF BRAZOS COUNTY, INC.

A. Creation. The Association, a Texas non-profit corporation, shall be incorporated with its initial registered office in Brazos County, Texas, and with its principal office located at 7607 Eastmark Drive, Suite 252B, College Station, Texas 77840.

SWEETWATER shall cause the Association to be incorporated, and SWEETWATER shall have the power to elect all members of the Board of Directors and to fill any vacancies occurring therein until SWEETWATER has conveyed by deed, in the aggregate, 80% of the lots in SWEETWATER FOREST SUBDIVISION PHASE I and any future acreage developed under a common scheme or plan of development by SWEETWATER, according to map or plat filed in the Deed Records of Brazos County, Texas. Once 80% of the lots have been so deeded, the membership of the Board of Directors shall be determined by majority vote of the land owners of record that are subject to a required maintenance charge payable to the Association. The voting shall be conducted according to rules established by the Bylaws of the Association. SWEETWATER may elect to transfer power to elect Board of Directors to said record owners at any time.

B. Powers and Functions. The Association shall have powers and functions provided by applicable law, its Articles of Incorporation, its Bylaws, as heretofore or hereafter amended respectively, and such other powers as set forth herein, including without limitation, at its option, the right to maintain streets, utilities, recreational areas, Common Areas, easements and right-of-ways; furnish power or gas for street lighting, maintain esplanades and other common areas, maintain city, County or state right of ways located in or adjoining the Subdivision, obtain and pay for liability insurance on the common area and properties maintained by the Association. The Association shall administer the Maintenance Fund hereinafter provided.

C. Membership. Lot ownership and membership in Association shall be inseparable. Transfer of a Lot automatically transfers membership in the Association and all right of the transferor with respect to the Common Areas and facilities to which ownership of such Lot relates.

If SWEETWATER develops further acreage under a common scheme or plan of development, as SWEETWATER, the Association, may require such property owners to be members of the Association and they shall have equal voting rights therein on the same basis as owners of property in this subdivision.

VI. MAINTENANCE CHARGE

A. Creation of Annual Maintenance Charge. Each parcel in SWEETWATER FOREST PHASE I, is hereby subject to an annual maintenance charge of Three Hundred and No/100 Dollars (\$300.00) per year, payable annually in advance by the owner of each parcel on the first day of March of each year, beginning March 1, 2002, and each succeeding year thereafter until terminated as provided below, to the Association, its successors and assigns, for the purpose of creating a fund described below, known as the "Maintenance Fund". Any lot purchased after August 1, 2001 shall have the annual maintenance charge prorated to the next December 31. Where any parcel is owned by more than one person or entity, said maintenance charge shall be payable by all such owners, jointly and severally.

The maintenance charge shall be prorated between purchasers and sellers of parcels in the proportion that the remaining months of the calendar year bear to the whole year.

By acceptance of a deed or other instrument of conveyance, or by any other claim of legal title to any parcel or portion thereof, each owner agrees and consents to the maintenance charge and the liens as provided herein.

The maintenance charge shall be paid for each year from 2001 through 2012, and shall be extended automatically for successive periods of ten (10) years unless before January 1, 2012 or before the 31st day of December of any tenth year thereafter, the owners of record of three-fourths (3/4) of the parcels in the Subdivision vote to discontinue such charge by written instrument which shall be signed and acknowledged by the owners of record of three-fourths (3/4) of the parcels and recorded in the Deed Records of Brazos County, Texas.

B. Liens. The Association shall have a lien against any parcel for which the annual maintenance charge provided herein or the garbage collection fee set forth in E below shall not be paid effective upon the thirtieth (30th) day following the date said maintenance charge or garbage collection fee became due and payable. In addition thereto the Association shall have a lien against any lot for the amount of any expenditures by the Association spent for the purpose of removing weeds, trash or debris from a lot. The amount of said lien shall be for the amount of the maintenance charge then due, owing and unpaid and/or the cost of removing any weeds, trash or debris plus an addition delinquency charge of twelve percent (12%) per annum of the unpaid balance accruing from the date said maintenance charge or removal cost became due and payable. The Association shall have the right to evidence the existence of this lien by filing a sworn and acknowledged statement of lien in the Office of the County Clerk of Brazos County, Texas, but the failure of the Association to so file a statement of lien shall not affect the validity of the lien as between the Association and the owner.

C. Purpose and Uses of Maintenance Fund. The maintenance charge shall be used to pay "maintenance expenses" which shall include without limitation expenses incurred for any of the following purposes: lighting, constructing, improving, mowing, cleaning, channeling and maintaining rights-of-way, including state, city and county right-of-ways, easements, streets, sidewalks, paths, fences, lakes, parkways, tracts, pools, lodge, esplanades, and any structures, facilities or area which can be used by all owners which in the opinion of the Association would benefit in the subdivision as a whole; collecting and disposing of garbage, ashes, rubbish and the like in said areas, (other than garbage, ashes, rubbish and the like from constructed residential dwellings),

...ing for vacant parcels, subsidizing bus or transportation service, employing watchmen or any other action deemed desirable to protect persons and property, payment of legal and all other expenses in connection with the operation of the Association, including purchasing liability insurance and the enforcement of all recorded changes, restrictions, covenants, agreements, and conditions affecting property to which maintenance charges apply, payment of all expenses in connection with the collection and administration of the maintenance charges, and doing any other things necessary and desirable in the opinion of the Association to keep property neat and in good order of which it considers of general benefit to the subdivision. The Association is authorized to employ third party managers or consultants to assist, perform or oversee the management and the maintenance of the Subdivision. The act of the Association and its expenditures of the Maintenance Fund shall be final so long as it acts in good faith.

D. Increases or Reductions to Annual Maintenance Charge. The Association may increase or reduce the maintenance charge from time to time by action applying uniformly to all parcels in the subdivision as provided below.

From and after January, 2002, the Association's Board of Directors, at its next annual or special meeting and at each annual meeting thereafter, shall set the amount of the monthly assessments for each year for each Lot, taking into consideration the current maintenance costs and future needs of the Association; except, however, the monthly assessments may not be increased in any one year by more than ten percent (10%) of the then existing annual assessment, except on the affirmative vote of owners entitled to cast two-thirds (2/3) of the votes of the Association, in person or by proxy, at a meeting duly called for such purposes.

E. Developer not Liable. SWEETWATER shall not be liable or in any way responsible for the payment of any maintenance charge provided on any lot or parcel of land owned by Sweetwater. This shall not prevent Sweetwater from volunteering to pay such maintenance charges.

VII. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS

In addition to the annual assessments for maintenance charges authorized above, the Association may levy in any assessment year, special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of at least a three-fourth (3/4) majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of a meeting called for this purpose shall be sent to all members not less than 30 days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting and its proposal to be voted on.

No special assessments for capital improvements shall be made under this provision prior to the time when the membership of the Board of Directors of the Association is determined by majority vote of the land owners of record subject to the maintenance charge as hereinabove set forth.

The Special Assessments shall be payable by the owners on the dates and terms as may be established by the Association. The Association may also provide for a lien against any parcels for which the special assessment remains unpaid.

VIII. SUBORDINATION OF THE LIEN TO MORTGAGES

The liens of the assessments provided for herein shall be subordinate to the lien of any first mortgage and/or mortgages granted or created by the Owner of any Lot to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Lot. Sale or transfer of any Lot or transfer of any Lot pursuant to a foreclosure under such purchase-money or improvement mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of

each assessment as to payments thereof 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 from the lien thereof. No extinguishment of the lien shall relieve the delinquent Lot owner from his personal obligation and liability thereof.

**IX.
EFFECT OF NON-PAYMENT OF ASSESSMENT
REMEDIES OF THE ASSOCIATION**

Any assessments and charges including the garbage collection fee which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action of Law against the Owner or member personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the SWEETWATER FOREST HOMEOWNERS ASSOCIATION OF BRAZOS COUNTY, INC., or its agents the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property and such Owner hereby expressly grants to the Association, a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners, and shall be exercisable by a Trustee to be named or designated by the Board of Directors of the Association. Any sale pursuant to this power shall be conducted in accordance with the provision of the Texas Revised Civil Statutes Annotated. The Association acting on behalf of the Lot Owners shall have the power to bid in an interest foreclosure at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of his right to such liens as for the assessment provided for herein by non-use of the common Area or abandonment of his Lot. Further, the Association shall have the right to deprive the Owner, the Resident member, and the Associate member of the use of the Common Area, and have the further right to post the name of the delinquent party at the appropriate place on the Common Area designated by the Association, in the event of non-payment of assessments.

**X.
RE-SUBDIVISION**

No lot may be re-subdivided into small lots. This provision does not apply to any real property reserved by SWEETWATER or to any real property that may be developed as a part of the subdivision in the future under a common scheme or plan of development. The Owner of two or more adjoining Lots may locate a structure on both Lots notwithstanding the setback requirements of the common boundary between any two Lots. The location of any such improvements shall be subject to the approval of the Committee.

**X.
WATER SERVICE**

The Subdivision is serviced by the City. Each Lot Owner shall be required to contract directly with the City. The cost of water, tap fees, membership fees, expansion reserve fees, installation fees, monthly use fees and meters shall be subject to the fee schedule of the City and paid by the Lot Owner.

**XII.
MISCELLANEOUS PROVISIONS**

1. The foregoing Restrictions are adopted as part of and shall apply to each and every parcel in the Subdivision. Such Restrictions are equally for the benefit of all subsequent owners of parcels in the Subdivision and accordingly, shall be covenants

running with the land. Any owner or lien holder of any of the property or the Association shall have the power to prosecute in the appropriate court a suit at law or in equity to prevent any violation or attempted violation of the Restrictions and to recover damages for any violation or attempted violation including, but not limited to, reasonable attorney's fees; provided, however, that this clause shall not restrict any governmental agency from acting to enforce any of the Restrictions.

2. The term of the Restrictions shall be for a period from the filing of this instrument for record in Brazos County, Texas, until the 1st day of January, A.D. 2012, after which such date such Restrictions shall be automatically extended for such successive periods of ten (10) years each, unless and until by instrument executed by the then record owners of a majority of the parcels in SWEETWATER and duly recorded in Official Records of Brazos County, Texas, such Restrictions are altered, rescinded, modified or changed, in whole or in part.
3. Nothing contained in this document, nor any violation of any of the Restrictions shall have the effect of impairing or affecting the rights of any mortgagee or trustee under any mortgage or deed of trust outstanding against the subdivision or any portion thereof.
4. Any and all rights, powers and reservations of SWEETWATER herein contained may be assigned to any person, corporation or association which will assume the duties pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by SWEETWATER, herein and SWEETWATER shall thereafter be released from any future liabilities. The term SWEETWATER as used in this document includes all such assignees and their heirs, successors and assigns.
5. Every person who now or hereafter owns or acquires any right, title or interest in or to any property in the Subdivision is and shall be conclusively deemed to have consented and agreed to every covenant, condition, reservation and restriction contained herein, whether or not any reference to this declaration is contained in this instrument by which such person acquires an interest in the property.
6. SWEETWATER reserves the right to make minor deviations from the terms of this document to the extent permissible by law and consistent with the general plan for development as herein set out.
7. The invalidity, violation, abandonment, waiver of or failure to enforce any one or more of or any part of the provision of this document shall in no way effect or impair the remaining provisions or parts thereof which shall remain in full force and effect.
8. SWEETWATER its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties thereby subjecting such additional lands to this Declaration, by filing of Record a Supplementary Declaration with respect to such additional property which shall extend the scheme of this Declaration to such property. The Association shall accept same to be owned and managed pursuant to the terms and conditions of this Declaration and such additional lands shall also be included in the definition of Subdivision.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the scheme of this Declaration. In no event, however, shall

such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the existing subdivision.

Dated this the 8th day of August, 2001.

SWEETWATER LAND DEVELOPMENT COMPANY, L.L.C.

By: *Fain McDougal*
FAIN MCDUGAL, Manager

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 10th day of August, 2001, by FAIN MCDUGAL, Manager of SWEETWATER LAND DEVELOPMENT COMPANY, L.L.C., a Limited Liability Partnership, on behalf of said partnership.



Linda Harrod
Notary Public, State of Texas
My Commission Expires: 2-22-03