

Ron Towery

From: "Chance Bernall" <chancebernall@gmail.com>
Date: Sunday, January 28, 2018 6:48 AM
To: "Ron Towery" <rontowery@pacbell.net>
Subject: Re: checking in

I think i may have some interest in those Ron, do you have draft covenants and or preliminary plat that i could review?

Hope you're well Ron

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On Jan 26, 2018, at 1:13 PM, Ron Towery <rontowery@pacbell.net> wrote:

Thanks Chance:

I believe most of the current prices are correct as to agreeing with the web page. I did notice with one prospect in Sweetwater III that the current brochure was \$2,000 higher than the web page. To be certain, I suggest you pick up a brochure on the subdivision signs for Sweetwater III and Blacktail Deer Creek Estates VI which are accurate.

I am working on verifying prices on my web page but I have been swamped with Sweetwater PUD subdivision, a two year process which has just been approved by the DEQ and we expect to start construction this late spring or early summer. You may be interested in three smaller lots; i.e. 1.7 to 1.9 acres that horses are permitted in corrals utilizing existing feed bunks and if the engineers have followed by instructions partial fences from the old feed lot on there north and south boundaries. I have designed these three lots as suitable for students in the horse program at Western MT college. Wells are around 120' to 150' in depth and standard septic systems. Subdividing cost has risen substantially but it has been my intention to bring these lots in close to \$50,000. I will know more when the road and drainage construction bid is finalized which will be soon.

lots 11, 12, 14
 lots 11, 13 &
 14 only.

Keep in touch. I do appreciate your interest.

DECLARATION OF PROTECTIVE COVENANTS OF SWEETWATER PUD MAJOR SUBDIVISION

THIS DECLARATION is made this day of , 2017, by Ronald E. Towery, Trustee of the Ronald E. Towery and Zora R. Towery Marital Property Trust, hereinafter called "Declarant".

RECITALS:

Declarant makes this declaration upon the basis of the following facts and intentions:

A. Declarant is the owner of the following described real property located in Beaverhead County, Montana:

LEGAL DESCRIPTION SWEETWATER BUSINESS P.U.D.

A tract of land being Parcel 2A, of C.O.S. 1459BA, and Parcel 3, of Final Plat Sweetwater Ranches Minor Subdivision, located in NW ¼ of Section 22 T.7S., R.8W., P.M.M., Beaverhead County, Montana, recorded in the office of the Beaverhead County Clerk and Recorder, more particularly described as follows:

Beginning at a point on the north line of said Section 22 being the northwest corner of said Parcel 3, from which point the northwest corner of said Section 22 bears N.89°53'43"W., 740.57 feet; thence from said point of beginning along said section line and along said Parcel 3 boundary the next two (2) courses S.89°53'43"E., 1343.58 feet to the northeast corner of said Tract 3; thence leaving said north section line S.00°28'37"W., 474.37 feet to a corner of said Parcel 2A; thence along said Parcel 2A boundary the next nine (9) courses S.89°44'57"E., 132.96 feet; thence S.00°08'47"W., 1159.08 feet to the centerline of the East Bench Canal; thence along said canal centerline the next four (4) courses N.89°54'47"W., 560.84 feet; thence S.61°53'45"W., 473.76 feet; thence S.38°27'15"W., 136.93 feet; thence S.21°37'56"W., 481.31 feet to a corner of Lot 32A of C.O.S. 1459BA; thence leaving said canal centerline and along said lot boundary the next three (3) courses N.71°26'10"W., 190.87 feet; thence N.20°09'11"E., 200.01 feet; thence S.89°53'38"E., 113.50 feet; thence N.00°20'18"E., 819.48 feet to a point on the boundary line between said Parcel 2A and Parcel 3; thence along said Parcel 3 boundary the next three (3) courses N.00°20'18"E., 648.92 feet thence N.89°24'02"W., 226.06 feet; thence N.01°01'19"W., 694.48 feet, to the True Point of Beginning. Said tract contains 53.191 acres along with and subject to any easements of record or implied.

B. Declarant plans to subdivide and develop the above-described property and impose thereon beneficial protective covenants under a general plan of improvement for the benefit of all of such real property, every part thereof and interest therein.

NOW, THEREFORE, Declarant hereby declares that the above-describe real property be held, sold, conveyed, encumbered, used, occupied and improved; subject to the following easements, restrictions, covenants and conditions; all of which are in furtherance of a plan for subdivision, improvement, and sale of said real property; and are established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part thereof. All of the easements, restrictions, covenants and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof; and shall be for the benefit of each owner of any portion thereof and inure to the benefit of and be binding upon each successor in interest of such owners.

C. Restrictions contained in Article VI, Section 1 (e); and Section 2 (n); (kk); (ll); (oo); (pp), (qq), and (rr) cannot be changed without the prior approval of Beaverhead County Governing Body.

ARTICLE 1

DEFINITIONS

Section 1. "Association" shall mean SWEETWATER PUD LOT OWNERS' ASSOCIATION, its successors and assigns.

Section 2. "Lot" shall mean any lot shown on the Sweetwater PUD Subdivision Plat on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana.

Section 3. "Member" shall mean any person or entity holding membership in the Association pursuant to its Articles of Incorporation and its By-Laws.

Section 4. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding contract sellers or those having such interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of each portion of the properties for value, owner shall mean Declarant. Prior to such conveyance,

Declarant shall have the right to retain such rights incidental to ownership hereunder as it may desire in its discretion.

Section 5, "Properties" and "Project" shall mean the real properties described in A. of the RECITALS above, Prior and subsequent phases when recorded with Beaverhead County.

Section 6, "Common Area" shall mean all real property in which the Association owns an interest for the common use and enjoyment of all members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be managed by the Association at the time of the conveyance of the first lot is described as:

(a) Roads - All roads shown on the Sweetwater PUD Subdivision Major Subdivision Plat on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana.

(b) Entrance Signs and Location - an easement in the NE corner of Lot 2.

(c) Easements for mail boxes and bus stop structure, NE corner of Lot 2.

ARTICLE II

PROPERTY RIGHTS

Section 1. "Easements"

(a) Each lot shall be subject to such rights of way and easements as the Declarant may grant for installation and maintenance of fences, water lines, power lines, telephone lines and other utilities. The Declarant specifically reserves the right and power to grant such easements. Installations for water and utility lines, telephone lines, natural gas if available, shall be underground and at the expense of the lot owner. Electrical power may be a combination of overhead and underground as granted by the Architectural Committee. Typically, power may be overhead and/or underground in ROWs in Sweetwater PUD Subdivision and underground to buildings and residences.

(b) The Declarant specifically reserves an easement for the construction, maintenance and placement of a permanent subdivision entrance sign on an area not to exceed 40' in an East/West direction parallel to Sweetwater Road and 20' in depth, located in the Northeast corner area of Lot 2.

(c) Declarant specifically reserves an easement 20' 0" in width, starting at the Northeast corner of lot 2, extending 100'0" in a Southerly direction on McDonald Way for the installation and maintenance of mail boxes and a bus stop structure together with appurtenant turnout and temporary parking area on Lot 2.

(d) Declarant specifically reserves a Right of Use of Bluebird Drive for ingress and egress for any purpose or utility use for the former lands of Declarant described as Parcel A, less and except Sweetwater Estates Phase I and III, and also parcels B and C of Certificate of Survey NO. 1291BR, filed for record in the Clerk and Recorder's Office on November 18, 2003 at 4:15 P.M., Document Number 251519 and being a tract of land located in the SE1/4, SW1/4, and E1/2 of Section 21 and the W 1/2 of Section 22, Township 7 South, Range West, Beaverhead County, Montana Principle Meridian. Declarant shall determine an equitable cost sharing for parcels utilizing Bluebird Drive which shall not be less than that assessed by Sweetwater PUD Lot owner's Association for Class A Members.

(e) Lots 15, 16, 17, and 18 have exclusive easements granted to the U.S. Bureau of Reclamation.

Section 2. "Waiver"

- (a) The Property Owners, by acceptance of a deed therefore, and for their heirs and assigns of any lot in Sweetwater PUD Subdivision waive the right to protest the creation of any Special Improvement District to pave, maintain or upgrade any of the internal subdivision roads that my serve this subdivision.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Sweetwater PUD Subdivision lot which is subject to assessment shall be a member of the Association.

Section 2. The Association shall have three classes of voting membership. Class A and Class B memberships shall be appurtenant to and may not be separated from the ownership of any lot subject to assessment.

PROPOSED CHANGES TO THE SWEETWATER PUD COVENANTS:

ARTICLE II PROPERTY RIGHTS, Section 1 "Easements"

(f) Declarant specifically reserves a 20' wide easement for Storm Water Drainage affecting Lots 1, 2, 3, 7, 11, 12, 14, & 15 together with a storm water pond in the N.E. corner of Lot 1 all shown on the plat of Sweetwater PUD Subdivision.

Sweetwater PUD Lot Owner's Association will be responsible for maintenance of the Storm Water Infrastructure which is expected to be minimal due to: (1) There is no "live" water, lakes, or streams in the project and absolute minimum surface water due to rainfall and snow melt being rare; (2) Low annual moisture of 10" to 12" per year; (3) a minimal elevation grade of 2.1% throughout the 1461' length of the drainage within the Sweet Water PUD Subdivision. Drainage from the improved roads will be channeled into a natural swale and only (2) 24" culverts and one 18" culvert at road crossings and (1) storm water retention pond are needed - all engineered for gravity flow to the retention pond without the need for pumps and mechanical devices.

ARTICLE IV, MAINTENANCE ASSESSMENTS, Section 2. Purpose of Assessment.

Section 2 to be amended to include "and maintenance of Drainage Infrastructure and common area.

(a) Class A members shall be and all subsequent owners of Lots 1 through 18 as shown on the Sweetwater PUD Major Subdivision plat, all of record in the office of the Clerk and Recorder of Beaverhead County, Montana. Each Class A member shall be entitled to 2 votes for each lot owned.

(b) Class B members shall be all subsequent owners owning a second or more lots that are undeveloped. Each Class B member shall be entitled to 1 vote for each additional undeveloped lot owned. Class B membership will cease and be converted to Class A membership upon the sale or development of the Class B lot.

(c) Class C member shall be the Declarant whom shall be entitled to 4 votes for each lot filed and recorded but unsold. Class C membership shall cease and be converted to Class A membership on the first to happen of the following events:

(1) When the total votes outstanding in Class A reach 51% of the vote provided for herein, or

(2) On December 31, 2025.

ARTICLE IV

MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. Each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a lien upon the property against which each such assessment is made, governed and subject to the laws of the State of Montana regarding liens and the enforcement thereof. Each such assessment, together with interests, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment was imposed.

Section 2. Purpose of Assessment. The assessments levied by the Association on lots sold shall be used exclusively to promote the recreation; health; safety; welfare

of the residents on the Properties; and for the improvement & maintenance of Subdivision Roads , dust and weed abatement of the Roads, Right of Ways, and common area. Sweetwater PUD Lot Owner's Association shall maintain its internal roads to and including the intersection of Bluebird Dr. and Tanager Lane. Road improvements and maintenance south of the Tanager Lane Intersection shall be the responsibility of those entitled in Article II, Section 1 (d).

Section 3. The maximum assessment per lot which may be made by the Association in the calendar year 2018 shall not exceed \$160.00 per Class A lot and \$80.00 per Class B lot. Thereafter, the maximum annual assessment may be increased each year by not more than 15% of the maximum assessment for previous year without a by vote of the membership. From and after 12-31-18, the maximum annual assessment may be increased by more than 15% by a vote of two-thirds (2/3) of membership who are voting in person or by proxy, at a meeting duly called for this purpose. Class A and B lots shall be assessed pro rata to the number of votes held by a member. The amount of the annual assessments and date imposed shall be fixed by the Board of Directors.

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

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 above shall be sent to all members not less than 10 days or more than 25 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one (51 %) of all the votes of all classes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. All annual and special assessments for Class A members must be fixed at a uniform rate. All annual and special assessments for Class B members must be fixed at a uniform rate of 50% of Class A members.

Declarant shall determine an equitable assessment for Bluebird Drive users specified in Article II, Section 1(d). Assessments shall be collected in a manner prescribed by the Board of Directors of the Association.

Section 7. Date of Commencement of Annual Assessments and due dates. The annual assessments provided for herein shall commence as to the initial lot sold and recorded subsequent to filing and recordation herein Covenants with Beaverhead County Recorder. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment, except that the assessment for the fiscal year 2017 may have been fixed at any time during that year. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of None Payment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent per annum. The association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of his lot.

Section 9. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become 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.

ARTICLE V

ARCHITECTURAL CONTROL

Section I. No Commercial, Residential or other structure such as a garage, out building, other structure, or septic tank, well, antenna, exterior ornament of any kind, or any addition, alteration or remodeling thereof shall be made, erected, altered, placed or permitted to remain upon the Properties, including vehicles, boats, RV's, trailers, etc., until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to a Design Review Committee consisting of three members appointed by the Board of Directors of

Sweetwater PUD Lot Owner's Association and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction. At least two of the three committee members shall be members of the Sweetwater PUD Lot Owners' Association and it is suggested that one of the members have professional qualifications or experience in the area of architecture, design or land planning. In the event the Design Review Committee fails to approve or disapprove such design, location, construction, and materials within sixty (60) days after the detailed plans and specifications have been submitted to it, approval shall not be required and this article will be deemed to have been fully complied with. Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the sixty day period hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted. Any structure to be erected in accordance with approval so given must be erected and completed within twenty months of approval or new approval obtained. If any structure is begun and is not completed within twenty months of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Directors of Sweetwater PUD Lot Owners' Association at the option of either may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combination thereof, or removal of the unfinished structure including foundation, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law. The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof.

Section 2. Neither the Association, the Design Review Committee, nor the individual members thereof, may be held liable by any person for any damages for any Committee action taken pursuant to these covenants, including, but not by way of limitation, damage which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee, or the removal of a damaged or unfinished structure including foundation by the Design Review Committee.

ARTICLE VI

MINIMUM BUILDING AND USE RESTRICTIONS

Section 1. Commercial Lots 2 thru 5 and 7 thru 10 as shown on the Sweetwater PUD Major Subdivision Plat of record in the office of the Clerk and Recorder office of Beaverhead County Montana.

- (a) A maximum of two (2) buildings may be constructed on subject premises though more may be considered by the Design Review Committee and approved if warranted.
- (b) No single building shall exceed a maximum height of 45 feet without a variance from the Design Review Committee.
- (c) Building setbacks shall be as follows unless a variance from the Design Review Committee is obtained:
 - Forty (40) feet from front property line.
 - Thirty (30) feet from adjacent property line.
- (d) Grazing of large animals is not permitted.

(e) Landscaping - Beaverhead County Subdivision Regulations require landscaping on all commercial and industrial lots within the subdivision to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings by some combination of planted, living trees, shrubs, hedges, vines, ground cover, flowers suitable for the climate, exposure, and site conditions. In addition, the combination or design may include earth sculpture, cobble, barks, mulch, flower tubs, rock, screens, walls, fences, or benches. Lawns are not permitted unless and until the "Clark Fork decision (**CFC Decision**) is rescinded or repealed by the State Legislature.

- (1) Landscaping area shall be the area of Lot or Lots less the total area occupied by all buildings on the site. For new site development, landscaping shall be provided as follows:

Landscaping area	Minimum Landscaping
Up to 22,000 sf	Ten% (10) Landscaping area
22,000 sf to 5 ac.	Eight% (8) Landscaping area
5 to 10 ac.	Six % (6) Landscaping area

Landscaping maintenance shall be the responsibility of Lot owners.

- (2) Developer has filed a Weed Abatement Plan with Beaverhead County. Owners will be responsible for controlling and

PROPOSED CHANGE TO ARTICLE VI, Sweetwater PUD Covenants

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Section 1. Commercial Lots 2 thru 5 and 7 thru 10 as shown on the Sweetwater PUD Major Subdivision Plat of record in the office of the Clerk and Recorder office of Beaverhead County Montana.

- (a) A maximum of two (2) buildings may be constructed on subject premises though more may be considered by the Design Review Committee and approved if warranted.
- (b) A maximum of one business owned by an Individual, Partnership, Corporation or Trust may own an individual commercial lot in order to comply with Montana State Department of Environmental Commission (DEQ) approval requirements for Sweetwater PUD Subdivision. An owner may rent commercial spaces to other business provided Water and Septic connections are limited to one primary building on each commercial lot. Secondary buildings, also subject to HOA's Design Review approval, may be constructed and used on Commercial Lots for storage and shops with electricity but shall not contain water and septic connections unless specific approval by Montana State DEQ is obtained.
- (c) No single building shall exceed a maximum height of 45 feet without a variance from the Design Review Committee.
- (d) Building setbacks shall be as follows unless a variance from the Design Review Committee is obtained:
 - Forty (40) feet from front property line.
 - Thirty (30) feet from adjacent property line.
- ^(e)
(d) Grazing of large animals is not permitted.

eradicating noxious weeds and agree to comply with the Weed Abatement Plan.

(3) The Design Review Committee will encourage commercial Lot Owners to adhere to (e) and (e)(1) above as much as possible but, realistically, may require less as the Beaverhead County Subdivision PUD regulations are not necessarily appropriate for the more light industrial nature of the Sweetwater PUD, the rural location, lack of a planned mixture of land uses, having open spaces, and community facilities in common ownership or use.

(4) Adequate off street parking shall be provided for employees and customers by lot owners.

(d) Signs for all commercial/industrial Lots shall meet the requirement IX-A-4 of Beaverhead County Subdivision requirements/Limits and managed by Sweetwater PUD Lot Owners Association.

(e) A commercial lot described in Article VI, Section 1 above may be converted to a single family detached lot provided the lot owner adheres to the requirements prescribed for Single Family Lots. In Article VI, Section 2.

Section 2. Single Family Detached lots # 1,6, 11 thru 18 as shown on the Sweetwater PUD Subdivision plat on file and of record in the Office of the Clerk and Recorder of Beaverhead County, Montana.

(a) Only one single family dwelling may be constructed on each lot, which shall be a minimum of 1200 square feet on the ground level exclusive of garage, porches, or other additions thereto. No more than one room in each residence may contain kitchen facilities, except certain facilities may be permitted by agreement of the Design Review Committee as a part of a den or play room. In addition to the single family as provided herein, bonafide domestic servants and care givers shall be permitted the use and occupancy of said residence while in the employment of said family.

(b) A minimum 2 car garage is required and must either be attached to the residence as an integral part thereof or attached thereto by an arbor or breezeway and shall conform to the architecture and exterior materials of the dwelling. An attached garage, as prescribed above, shall not be considered another building. A concrete, masonry, or asphalt apron in front of and the width of the garage suitable for the length of an auto together with a walk way to the front door or porch shall be

constructed prior to the owner residing on the property or 20 months whichever comes first. Drainage ditches in the road "right of way" shall not be impacted and all driveways to every lot must contain a minimum 10" culvert of sufficient length to extend a minimum (2) two feet on each side of the driveway. Each lot owner shall keep culverts free of weeds and debris so as to not impede drainage. Design Review Committee may waive culvert requirement if warranted due to topography.

(c) A maximum of two (2) buildings may be constructed on subject premises though individual buildings may serve a dual purpose; i.e. guest quarters/shop building; barn/stable building; barn/shop buildings etc. Larger lots of 3 acres or more may have a maximum of three (3) buildings subject to the Design Review Committee approval.

(d) No single family dwelling or other out building shall exceed a maximum height of 35 feet without a variance from the Design Review Committee.

(e) Single Family detached and out buildings setbacks shall be as follows unless a variance from the Design Review Committee is obtained:

From front property line 100'

From rear property line 100'

Sides to property line 40', except Lots 11, 12, 14, & 15 which may be 25'

(f) No business whatsoever shall be conducted on the premises or within the residence except a home business that does not deal with the public at large; i.e. telegraphic, Internet, telephony, hobby, crafts, arts, etc. which shall be conducted in completely enclosed buildings. Customers visiting the premises on a regular basis are not permitted.

(g) No room or rooms in any single family detached unit may be rented or leased to any person; provided, however, that nothing contained herein shall be construed as preventing the renting or leasing of an entire lot together with its improvements as a single family unit to a single family.

(h) Residents may keep dogs, cats, or other animals which are bonafide household pets, so long as such pets are not kept for commercial purposes and do not make objectionable noises or odors or otherwise constitute a nuisance or inconvenience to any of the residents of Sweetwater PUD Subdivision or adjacent parcels. Dogs must remain on owner's premises unless on a leash or under the complete control of the owner. Owners must adequately fence their parcel or build a large kennel if they maintain dogs outside. Chaining or tying dogs to restrain them is not permitted and is not adequate to comply with this requirement.

(i) Residents may keep rabbits, poultry or similar birds or fowl for their personal use so long as they are not kept for commercial purposes, do not make objectionable noises or odors or otherwise constitute a nuisance or inconvenience to any of the residents of Sweetwater PUD Subdivision or adjacent parcels. Coups and containment structures must be located in a barn or screened or blocked from view of neighbors and roads.

(j) Horses, cattle, sheep, goats, lamas, and similar livestock may only be kept on lots containing 3 acres or more. A 3 acre to 4 acre parcel is limited to 2 such animals. A 5 acre or larger parcel is limited to 3 such animals. Lots 11, 12, & 14 are an exception to this provision whereby 2 such animals are permitted provided the animals are corralled without grazing on these small lots. Manure management and dispersal shall be accordance with the grazing plan filed with Beaverhead County for Sweetwater PUD subdivision. Adequate lot perimeter fencing shall be installed prior to livestock being permitted on premises and maintained thereafter. Lot owners by accepting these Covenants agree to comply with Grazing Plan filed with Beaverhead County.

(k) No activity may be carried on nor allowed to exist upon any lot, which may be obnoxious, detrimental, offensive, illegal, or constitute a nuisance to any adjacent properties or to the occupants of any lot in Sweetwater PUD Subdivision.

(l) All improvements to be erected on any lot in Sweetwater PUD Subdivision, regardless of the type or nature of the structure being designed or erected, shall be fully completed within twenty months from the date of the commencement of construction, and all building material and other equipment normally used for the erection of construction of said structure shall be completely removed from the premises within said period of time. Interior finishing of buildings and dwelling houses may extend beyond this period so long as there are no building materials or other equipment used for the purpose of construction and erection stored on the premises beyond the twenty month period of time herein designated. At their discretion, the Design Review Committee may extend the period of time upon proper application in writing for such an extension.

(m) The owner of each and every lot shall use reasonable care in placing a structure on a lot so as not to obstruct the view from adjoining lots. Drain fields and wells shall be placed in the designated locations shown on the sanitary plats for Sweetwater PUD Subdivision unless an alternate site is approved by the Beaverhead County Sanitarian for drain fields and wells. Declarant's engineers have submitted for DEQ approval for each lot to share a joint well and septic system with an adjoining lot owner. If approved, the Design Review Committee will be responsible for administering and control of joint wells and septic systems and to determine equitable

cost sharing. No lot owner may be forced to participate in a shared well or septic system and may develop an individual well, septic system, or both upon written notification to the Design Review Committee.

(n) Any exterior lighting installed on any lot shall be indirect and have full cut-of-deflector to direct light downward so as not to disturb the residents of adjacent properties and shall be activated by manual or motion switches. Exterior lighting shall not be "on" for extended periods.

(o) No temporary house, tent, garage, or outbuilding shall be placed or erected on any part of any lot and no residence placed or erected on any lot shall be occupied prior to completion in accordance with the plans and specifications approved by the Design Review Committee. Necessary temporary buildings for the storage of building materials and tools may be constructed and used only during the period of construction. The work of construction, altering or remodeling of any building or part thereof shall be completed no later than twenty months after the approval for same by the Design Review Committee. Mobile homes may be placed on lots during actual construction and must be removed no later than twenty months after the approval of construction work by the Design Review Committee.

(p) The owner of a lot may install fences. The owner of a lot must allow access for utility repair. Repairs to such fences because of utility repairs shall be the responsibility of the owner of such lot. Maximum height of fences shall be five (5) feet in front and six (6) feet in the rear and sides. Patio privacy fences shall be made of materials that conform to the concept of naturalness and shall conform in regard to materials and design as approved by the Design Review Committee.

(q) No trash or garbage shall be burned except in an approved incinerator. No barbecue or other outdoor cooking facility shall be located nearer than 25 feet from either side of lot lines.

(r) Any building placed, erected or maintained upon any lot in Sweetwater PUD Subdivision shall have a permanent perimeter foundation, be entirely constructed thereon, or prefabricated of modular or normal construction techniques that meet or comply with Design Review Committee requirements.

(s) No outside toilets shall be placed on any lot except during the period of construction.

(t) No advertising or signs of any character shall be erected, placed, permitted or maintained on residential lots or dwellings within Sweetwater PUD Subdivision other than:

(1) A name plate of the occupant and a street number;

(2) A "For Sale" sign, maximum size three (3) square feet.

(u) No elevated tanks of any kind shall be erected, place, or permitted upon any part of said property without approval of the Design Review Committee. Any tanks to be used in connection with any residence constructed in any phase of Sweetwater PUD Subdivision, including tanks for the storage of gas, oil, water, or butane must conform to the specifications and control of the Design Review Committee. All types of refrigerating, cooling, or heating apparatus must be concealed.

(v) All outside radio and television antennas must conform to specifications and control of the Design Review Committee.

(w) No motorized bicycles, trail bikes, motor scooters, snowmobiles, four wheelers, or similar types of recreational vehicles, shall be operated on the lots, roads, or property of Sweetwater PUD Subdivision except for the purpose of going to and from work and other purposeful travel. Recreation vehicles shall be garaged or adequately screened from view.

(x) Parking along roads on a regular basis is not permitted.

(y) No building or structure upon any lot may be permitted to fall into disrepair. Buildings or structures must at all times be kept in good condition, adequately painted, or otherwise finished.

(z) Each lot at all times shall be kept in a clean, slightly and wholesome condition. No inoperable motor vehicles, snowmobiles, motorcycles, four wheelers, campers, trailers, boats, trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials, or any other similar items shall be permitted to remain exposed on any lot so as to be visible to any neighboring lot, adjoining properties or Sweetwater Road or roads within the subdivision. A maximum of two vehicles may be regularly parked in the driveway or garage apron of the lot. Other operable recreation vehicles and devices must be garaged or screened from other residences, adjoining properties and the roads within the subdivision.

(aa) Each owner of a lot agrees for himself, his heirs, assigns, or successors in interest, that he will permit free and reasonable access by the owner of adjacent or adjoining lots containing a divisional wall, fence, hedge, or any other barrier, when such access is essential for the construction, reconstruction, refinishing, repair, maintenance, or alteration of such divisional structure or planting.

(bb) Lots shall not be further subdivided except for the purpose of combining portions with an adjoining lot, provided that no additional lots or building site is created thereby and then only with the express permission of the Design Review Committee.

Any ownership or single holding by any person comprising the whole of one lot and part or parts of one or more adjoining lots shall, for all purposes of these covenants and restrictions, be deemed a single lot. Not less than one entire lot as originally platted shall be used as a building site.

(cc) It is expressly agreed and understood that the declarant may use any of the lots in the subdivision for a sales office, for model homes or for parking related to such sales office or model homes. Any portion of the subdivision including streets, drives, and other roadways, may be used for sales purposes, guardhouses, security structures, and for other purposes deemed proper by the Declarant.

(dd) In the event that a structure is destroyed, wholly or partially, by fire or any other casualty, said structure shall be properly rebuilt or repaired to conform to this declaration or all the remaining structure, including the foundations and all debris shall be removed from the lot.

(ee) Easements and rights of way are hereby reserved for the erection, construction, maintenance, and operation of wires, cable, pipe, conduits and apparatus for the transmission of electricity, telephone, television and for the furnishing of gas or other utility purposes together with the right of entry for the purpose of installing, maintaining, and reading gas and electric meters together with the further rights to the Declarant to convey or lease the whole or any portion of such easements, rights of way or right of entry to any person or persons or to any corporation or municipal body, under, along, across, upon and through a strip of land 15 wide along the interior boundary of this subdivision and 7.5 feet on each side of interior lot lines, a 50 foot wide unrestricted access and utility easement along McDonald Way and Tanager Lane, and 60 foot width along Bluebird Drive and Lark Lane including utilities and access to Declarant's former lands south of the East Bench Canal.

(ff) Declarant reserves the utility easements and rights of way shown on the recorded plats of the subdivisions for the construction, addition, maintenance and operation of all utility systems now or hereafter deemed necessary by Declarant for all public utility purposes, including electric, telephone, cable, gas, water, and sewer services.

(gg) Underground utilities shall be installed to buildings and residences in the subdivision. Each residence in the subdivision shall, at the expense of the owner or builder of the residence, have a trench opened from the residence to the utility easement designated by the utility company for installation of said utilities, and the owner shall close the trench after installation of the utilities. Overhead power may be installed in ROW easements.

(hh) The Declarant reserves the right to make minor changes in and additions to all easements for the purposes of most efficiently and economically installing utility systems.

(ii) All lot owners shall not construct a dwelling on a building site with 12% or more slope. Should the developer or lot owner disagree with this restriction, the County Governing Body may reconsider the restriction when additional technical information is provided by a qualified engineer.

(jj) All buildings exceeding 20' X 20' dimensions shall have rain gutters with down spouts to channel rain water and snow melt into underground "French" type drains of sufficient size and length to absorb the normal flow of such water. Surface distribution of water from roofs is not permitted.

(kk) Roofs and windows shall be of non-reflective materials. Exterior materials and colors shall be of natural or composite materials that blend well with the environment of Sweetwater Subdivisions.

(ll) Hunting and the discharge of firearms and shotguns is not permitted with the exception of pellet guns and 22 caliber guns for disposal of rodents and small nuisance animals. Discharge of guns towards neighboring properties including Parcel 1, Sweetwater Ranch Subdivision and Sweetwater Estates II is not permitted and shall be a serious breach of these Covenants and subject to judicial action initiated by the Declarant and/or Sweetwater PUD Lot Owner's Association, County Commissioners and subject to applicable State Law concerning the safe discharge of firearms.

(mm) A Beaverhead County septic permit must be obtained prior to any new construction requiring sanitation.

(nn) At the time of occupancy, each Commercial and Residential lot shall be clearly marked with an address sign that complies with the Beaverhead County Addressing Ordinance.

(oo) A noxious weed control management plan has been filed with Beaverhead County by Declarant. Noxious weeds including "Foxtail" grass type weeds shall be controlled by each parcel owner, including their portion of the road "Right of Way" and distribution of weeds shall not be permitted to impact any adjoining property. Declarant, his agent, and assigns; Officers and/or agents of Homeowner's Assn.; and bonafide members or employees of Beaverhead County Weed Control agency or County shall be permitted to enter parcels to inspect for noxious weeds and "Foxtail" grass type weeds. In the event a parcel owner fails to control weeds declared to be noxious by Beaverhead County/Montana State including "Foxtail" grass type weeds prior to seed maturity, the Declarant his agent or assigns, Sweetwater PUD Lot Owners

Assn., and/or Beaverhead County Weed Control agency may eradicate or control said weeds by chemical, cultural, mowing, or any appropriate method; invoice each parcel owner not to exceed the then standard rate charged by Beaverhead County, a local commercial/professional applicator, or for actual materials used plus labor and machinery usage.

(pp) Dust abatement for roads in Sweetwater PUD Subdivision is a "Specific Condition of Approval" by Beaverhead County and shall be a long term road maintenance obligation of the Homeowner's Association.

(qq) Parcels 15, 16, 17, and 18 contain easements granted to the U.S. Bureau of Reclamation along the East Bench Canal. Permanent improvements within the recorded easements will require an "Acknowledgement of Easement Crossing" approved by the U.S. Bureau of Reclamation.

(rr) Property owners are prohibited from using East Bench Canal roads for ingress and egress into the development or their property; that property line gates, cattle guards, and fences cannot extend across the East Bench Canal roads and may not extend into or beyond areas that the East Bench Irrigation District customarily deposits soils, weeds, moss, and debris in maintaining the canal; that East Bench Canal water is not permitted for stock watering or irrigation; and that any interference with the rights, operation, and maintenance of the East Bench Canal is a violation of these Sweetwater PUD Subdivision Covenants and violations are enforceable under Article VIII, Section 1 of these covenants.

(ss) Landscaping including lawns is limited to .25 acre per lot unless and until the "Clark Fork Decision (**CFC Decision**) is rescinded or repealed by the State legislature.

(tt) A Single Family residential lot may not be converted to a commercial lot without approval of Declarant and Beaverhead County Commissioners.

Section 2. Variances.

(a) The Design Review Committee may make variances in the minimum building and imposed Use Restrictions of Section 1 and 2 of this Article VI in

connection with the approval process; i.e. building setbacks, height, screening, etc., except those restrictions requiring prior approval of Beaverhead County Governing Body.

(b) The Design Review Committee may conditionally approve, deny, or approve a request to modify the minimum Building and Use Restrictions imposed by Section 1 of Article VI, according to the following procedure:

(1) Applications. Applications for modifications shall be delivered to each of the members of the Design Review Committee, either in person or by certified mail. The application shall be accompanied by a fee in an amount sufficient to provide for mailing notice to the membership as provided in (b)(2) and (c) below. The Design Review Committee shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and a purpose of these Covenants.

(2) Notice of Hearing. Notice of hearing on the application for modifications shall be mailed to each member of the Association by the Design Review Committee at least 15 days prior to the date set for hearing, and shall be accompanied by a copy of the application for modification. The hearing shall be at the appointed time and place; testimony may be taken by the Design Review Committee from persons affected by the modifications and any experts called by either applicant or a member opposed to modification for the purpose of aiding the Design Review Committee in their deliberations.

(3) Rules for Approval. After hearing and prior to approval of any such application for modification, the Design Review Committee shall designate such conditions as will secure substantial compliance with these Covenants from the applicant and shall find as follows:

(3.1) Such modifications will not be inconsistent with the intent and purpose of these Covenants and the general plan of the Subdivision.

(3.2) That strict compliance with the provisions of Section 1 of this Article VI would create an unnecessary hardship or unreasonable situations on a particular property due to unusual topography, shape of the property, or the prevalence of similar conditions in the immediate vicinity of the property.

(3.3) Those modifications will have minimal adverse effect on abutting properties or the permitted uses thereof.

(3.4) That the applicant has agreed in writing to be bound by the conditions imposed by the Design Review Committee for granting such modification and, if required by the Design Review Committee, have posted a performance bond in an amount sufficient to insure compliance with the conditions imposed by the design Review Committee.

(c) Appeal from the design Review Committee's decision. An appeal from the Design Review Committee's decision to the membership of the Sweetwater PUD Lot Owners' Association may be made by either the applicant or any member of the Association opposing modification. Notice of Appeal shall be in writing and delivered to the President of the Lot Owners' Association or a member of the Board within 15 days after action of the decision of the Design Review Committee is rendered. Thereafter, the President or the Board of Directors shall call a special meeting of the membership pursuant to the requirements of the By-Laws of the Lot owner's Association governing special meetings. A quorum for purposes of a special meeting to hear an appeal from the Design Review Committee's decision shall be members representing $\frac{3}{4}$ of all the votes of each class of membership, who must be present in person or by written proxy. If a quorum is present the proponents and opponents shall then present their respective cases to the membership. If a quorum is not present, the meeting shall be adjourned and the decision of the design Review Committee shall stand. An affirmative vote of $\frac{3}{4}$ of the members present and constituting a quorum shall be required to reverse the action taken by the Design Review Committee.

ARTICLE VII

DEDICATIONS

Section 1. Roads. The roads within Sweetwater PUD Subdivision shall be a public way and maintained by the Association. The Declarant, its heirs and assigns, and lot owners by accepting these covenants irrevocably agree with the Beaverhead County Commissioners whereupon the County, upon its discretion, may accept ownership and responsibility for the roads at any time.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration of Protective Covenants. Cost associated with enforcing Project Covenants shall be a lien against the property of the offending owner and incur and accrue interest at one (1 %) percent per month until paid. It shall be lawful for the Declarant, any owner of Sweetwater UD Subdivision, and/or Beaverhead County to prosecute proceedings at law or in equity against subject parcel owner or persons either to prevent the violation and/or to recover cost, legal fees, court cost, and damages for such violations. The Governing Body of Beaverhead County is a party to these Covenants and may enforce the provisions thereof. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do.

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

Section 3. The covenants and restrictions of this declaration shall run with and bind the land for a term of ten years from the date this declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded, signed by the owners of 66 2/3% of all lots within this subdivision, including subsequent additions, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first ten year period by an instrument signed by not less than 66 2/3% of the lot owners. Any amendment that would materially alter any of the requirements imposed by the governing body of Beaverhead County, which requirements were made mandatory for the process of final subdivision approval, shall be approved by the governing body of Beaverhead County prior to amendment. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this day of 2017.

SWEETWATER PUD MAJOR SUBDIVISION

By:

Ronald E. Towery, Trustee
Ronald E. Towery and Zora R. Towery Marital Property Trust

STATE OF MONTANA)

ss

County of Beaverhead)

On this day of _____, 2017, before me, a Notary Public for the State of Montana, personally appeared RONALD E. TOWERY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal the day and *year first above written*.

Notary Public for State of Montana
Residing at _____
My commission expires _____