



**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
BRIGHTWATER CLUB**

6/31

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BRIGHTWATER CLUB (this "Amendment") is made to be effective January 1, 2007, by Clearwater Development, Inc., a Colorado corporation ("Declarant").

**RECITALS:**

A. The Declaration of Covenants, Conditions, Restrictions and Easements for Brightwater Club was recorded on September 8, 2005, at Reception No. 928910, in the Eagle County, Colorado records, as supplemented by the First Supplemental Declaration to Declaration of Covenants, Conditions, Restrictions and Easements for Brightwater Club recorded on October 26, 2005, at Reception No. 934662 (the "First Supplemental Declaration") and Second Supplemental Declaration to Declaration of Covenants, Conditions, Restrictions and Easements for Brightwater Club recorded on November 7, 2005, at Reception No. 936074 (the "Second Supplemental Declaration"), both in the Eagle County, Colorado real property records (collectively, the "Declaration"), which Declaration created the real estate development known as the Brightwater Club (the "Project").

B. The Final Plat for Brightwater Club Filing 1 was recorded in the real property records of Eagle County, Colorado on May 18, 2005 at Reception No. 916179; the Final Plat for Brightwater Club Filing 2 was recorded in the real property records of Eagle County, Colorado on June 20, 2005 at Reception No. 919836; the Final Plat for Filing 3 was recorded in the real property records of Eagle County, Colorado on September 14, 2005 at Reception No. 929490; the Final Plat for Brightwater Club Filing 4 was recorded in the real property records of Eagle County, Colorado on April 13, 2006 at Reception No. 200609481; and the Final Plat for Brightwater Club was recorded in the real property records of Eagle County, Colorado on May 9, 2006 at Reception No. 200612175 (collectively, the "Plat").

C. The purpose of this First Amendment is to adjust the contributions of Owners of Lots in the First Supplemental Property, also known as the Neighborhood "The Retreat at Brightwater Club", and the Second Supplemental Property, also known as "The Cabins at Brightwater Club" (collectively, the "Filing 3 Properties"), towards Exterior Maintenance Area, as that term is defined in the First Supplemental Declaration and the Second Supplemental Declaration, and ground maintenance, and also to incorporate into the Declaration the amendments to CCIOA (as defined in the Declaration) recently adopted by the Colorado legislature (the "CIOA Amendments").

D. All capitalized terms used herein shall have the meanings as defined in the Declaration, unless otherwise defined or modified herein.

**NOW THEREFORE**, the Association hereby declares as follows:

1. To clarify terms and conditions set forth in the Declaration and the Plats, maintenance and repair of all platted and private Roads and utility access and drainage easements located within the Project are a Common Expense, including snow removal therefrom.
2. Filing 3 Parcel J, known as The Cabins, is also known as Falls Creek. Filing 3 Parcel K, known as The Homestead, is also known as The Retreat.

Please return to:  
Katie Campbell, Paralegal  
Garfield & Hecht, P.C.  
P.O. Box 5450  
Avon, CO 81620

3, Section 16.18.3 is clarified in part with the addition of the following language at the end of the second paragraph: "The repair and maintenance of such foot trail and five parking spaces may be considered a Common Expense of the Association."

4. Colorado Common Interest Ownership Act Compliance. In accordance with the CIOA Amendments, the Declaration is hereby amended as follows:

A. Signs. Article 4, Association Functions and Duties, is hereby amended in part by the addition of the following new Section 4.11.4.8:

"4.11.4.8 No rule or action by the Association shall interfere with an Owner's right to display flags, banners, signs, pennants or similar items that are political or of patriotic expression in nature from any balcony or in a window of their improvement(s) located on a Lot, unless it is political in nature and is displayed within forty-five days before an election day or seven days following an election day."

B. Books and Records. Section 4.17 is hereby amended by deleting it in its entirety and replacing it with the following new Section 4.17:

"Section 4.17 Records.

4.17.1 The Association shall keep records including, but not limited to, all financial records, Association minutes and Board actions, Association governing documents, and Owner information, sufficiently detailed to enable the Association to comply with the Act, as amended from time to time.

4.17.2 All records required by Section 38-33.3-223 of the Act shall be made reasonably available for examination by any Owner or such Owner's authorized representative(s) during normal business hours and under other reasonable circumstances. As used herein, "reasonably available" means available during normal business hours, upon notice of five (5) business days, to the extent that (i) the request is made in good faith and for a proper purpose, (ii) the request describes with reasonable particularity the records sought and the purpose of the request, and (iii) the records are relevant to the purpose of the request.

4.17.3 The Association may charge a fee, not to exceed the Association's actual cost per page, for copying such materials."

C. Section 16.1, General Restrictions, is hereby amended in part by the addition of the following new Sections 16.1.26 and 16.2.17:

"16.1.26 Emergency Vehicles. Notwithstanding any other provision of this Declaration to the contrary, the Association shall not prohibit the parking of a motor vehicle by an Owner or Owner's tenant on a street, driveway, or guest parking area in the common interest community if the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's or Owner's tenant's employment and all of the following criteria are met: (i) the vehicle has a gross vehicle weight rating of ten thousand pounds or less; (ii) the Owner or Owner's tenant is a bona fide member of a volunteer fire department or is employed by an emergency service provider; and (iii) parking of the vehicle can be accomplished without obstructing

emergency access or interfering with the reasonable needs of other Owners to use streets and driveways within the common interest community.

16.1.27 Fire Prevention. The Association shall not prohibit the replacement by an Owner of cedar shakes or other flammable roofing materials with nonflammable roofing materials for fire prevention or fire suppression purposes. The Association may, in accordance with Article 15, specify reasonable standards for the color, appearance and general type of nonflammable roofing materials that are used to replace flammable roofing materials, but may not require the use of nonflammable materials that exceed the replacement cost of the flammable materials for which they are being substituted."

D. Section 17.2, Amendment, is hereby amended in part with the addition of the following language:

(a) In the third line, delete the words "or more".

(b) In the fifth line at the end of the sentence ending "...in such provision." delete the period and add "; and provided that the amendment does not conflict with C.R.S. §38-33.3-217(1)(a)(III)(B, C, D or E), §38-33.3-217(4)(b), §38-33.3-103(21.5), or §38-33.3-217(7)."

5. Property Use Restrictions and Acknowledgements. Article 16 is hereby amended, in part, as follows:

A. Section 16.1.4 is deleted in its entirety and replaced with the following:

"16.1.4. Antennae. Owners and their guests or lessees may install, maintain and use any exterior radio, television, microwave, satellite dish or other antennae or signal capture and distribution device if such device is less than one meter in diameter and is used only on their own and exclusive property. Installation of any and all such devices shall be subject to prior written approval by the Design Review Board and regulation by the Federal Communications Commission and other applicable laws in effect from time to time."

B. Section 16.1.5 is amended, in part, with the addition of ", permitted horses" in the first sentence after "..., except dogs, cats", and the deletion of "..., including, but not limited to, the Golf Course" at the end of the last sentence.

C. Section 16.1.6 is amended, in part, by the deletion of "(iii) such horses shall be kept in a manner so as to cause no impact, whether audible, odoriferous or otherwise, upon other Lots or the Owners thereof, and shall be maintained so as to cause no nuisance;" in the seventh line.

D. Section 16.1.20 is amended, in part, with the addition of "replacements and maintenance thereto" at the end of the first sentence.

E. Section 16.1.21 is amended, in part, with the addition of "in cooperation with the appropriate governing municipal authority" at the end of the sentence.

- F. Section 16.1.22 is amended, in part, with the addition of the sentence "Notwithstanding the foregoing, this restriction shall be subject to permissibility of equestrian use of Equestrian Lots." at the end of the paragraph.
- G. Section 16.14. is amended, in part, with the addition of the following sentence at the end of the paragraph: "To the extent horses are permitted on any Lot by Developer or any appropriate municipal governing body, watering requirements are subject to the Annexation Agreement and shall be uniformly adopted and applied by the Design Review Board."

IN WITNESS WHEREOF, the undersigned Board members and officers, on behalf of the Association, have hereunto set their hands and affixed the corporate seal as of September 28, 2007.

BRIGHTWATER CLUB PROPERTY OWNERS ASSOCIATION, a Colorado non-profit corporation



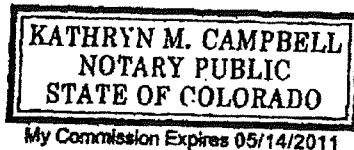
By: [Signature]  
 Name: STACEY C. HIGGINS  
 Title: V.P.

STATE OF COLORADO     )  
   ) ss.  
 COUNTY OF EAGLE         )

The foregoing was acknowledged before me on this 28 day of September, 2007 by Stacey C. Higgins as Vice President of Brightwater Club Property Owners Association, a Colorado Nonprofit corporation.

Witness my hand and official seal.  
 My commission Expires: 5/14/11

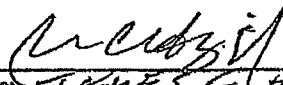
[Signature]  
 Notary Public



**CERTIFICATION**

The undersigned officer of Brightwater Club Property Owners Association, hereby certifies that all necessary persons have approved this First Amendment to Declaration as required by Section 17.2 of the Declaration.

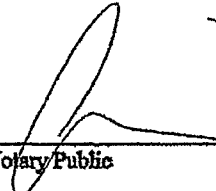
**BRIGHTWATER CLUB PROPERTY OWNERS  
ASSOCIATION, a Colorado nonprofit corporation**

By:   
Name: JAMES C. HIGGINS  
Title: VP

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EAGLE     )

The foregoing was acknowledged before me on this 12 day of NOVEMBER, 2007 by JAMES C. HIGGINS, as VICE PRESIDENT of Brightwater Club Property Owners Association, a Colorado nonprofit corporation.

Witness my hand and official seal.  
My commission Expires: \_\_\_\_\_

  
Notary Public

Eileen Duke  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 05/30/2011

**JOINDER OF LIENOR**

Cypress Lending Group, Ltd., a Florida limited partnership ("Lender"), the beneficiary under that certain Deed of Trust recorded at Reception No. 200702357 and in the Office of the Clerk and Recorder of Eagle County, Colorado, for itself, its successors and assigns, approves the foregoing First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Brightwater Club, which affects the property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to the Deed of Trust of which Lender is a beneficiary shall impair, invalidate, supersede or otherwise affect the covenants, conditions restrictions and easements established by that Declaration or any amendment or supplement thereto.

CYPRESS LENDING GROUP, LTD., a Florida limited partnership

By: Robert P. Grammen  
Name: ROBERT P. GRAMMEN  
Title: MANAGING MEMBER

STATE OF Florida }  
COUNTY OF Collier } ss.

The foregoing instrument was acknowledged before me this 9 day of November, 2007, by Colleen Birkland as Exec. Vice of Cypress Lending Group, Ltd., a Florida limited partnership.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: August 18, 2008  
Wyfa Colleen Birkland  
Notary Public

