

**AMENDMENT**

**TO THE**

**DECLARATION**

**OF**

**COVENANTS, CONDITIONS AND**  
**RESTRICTIONS**

**OF**

**CLEARWATER COVE**

**A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

October 2019

**AMENDMENT  
TO THE  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
CLEARWATER COVE  
A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

This Amendment to the Declaration of Covenants, Conditions and Restrictions of Clearwater Cove ("2019 Amendment") is made and executed on the date shown below after a vote of approval by the members of Clearwater Cove Homeowners Association ("Association"), a Utah nonprofit corporation.

**RECITALS**

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Clearwater Cove ("Declaration") was recorded in the office of the Davis County Recorder on May 21, 2002, as entry number 175534; and

WHEREAS, the Declaration, and any amendments thereto shall collectively be referred to as the "Governing Documents" herein; and

WHEREAS, the members of the Association desire to adopt the this 2019 Amendment and record the same against the real property located in Davis County, Utah, known as Clearwater Cove Subdivision and more fully described on Exhibit "A" attached hereto; and

WHEREAS, the Residential Lot Owners within the Association desire to preserve and enhance the quality of life at Clearwater Cove and have purchased their Residential Lot for the purpose of using their Residential Lot as an owner occupied single family residence; and

WHEREAS, the Owners have purchased a Residential Lot in a community association because they understand the community association living concept was developed to create a real property interest wherein individuals could own their own real property and enjoy the benefits and stability that accompany ownership of real property, both individually and as a neighborhood, as well as the security that comes to a high density community association by having residents who are owners and are committed to the long-term welfare and good of the community; and

NOW THEREFORE, to accomplish the Owners' objectives, the following 2019 Amendment is adopted. If there is any conflict between this 2019 Amendment and any provision of the Governing Documents, this 2019 Amendment shall prevail. This 2019 Amendment shall become effective upon recording. The words defined in Article I of the Declaration shall have the same meaning when used herein unless the context clearly requires a different meaning. The Restated Declaration and the Governing Documents are amended as follows:

**ARTICLE I  
RENTAL RESTRICTIONS**

- 1.1 **Leasing Prohibited.** The leasing of a Living Unit (“Unit”) at Clearwater Cove is prohibited unless the leasing is consistent with this 2019 Amendment.
- 1.2 **Limited Leasing Permitted.** No Unit may be rented or leased for less than twelve (12) consecutive months. No short term, weekly, weekend, or overnight rentals, shall be permitted.
- 1.3 **Twenty Unit Cap.** Not more than twenty percent (20%) of the Units at Clearwater Cove shall be occupied by non Unit Owners at any one time.
- 1.4 **Board Approval of Leases.** All leases, subleases, assignments of leases, and all renewals of such agreements shall be first submitted to the Clearwater Cove Board who shall determine compliance with this Article I.
- 1.5 **Notification to Board.** Any Unit Owner desiring to lease his or her Unit or to have his or her Unit occupied by a non-Unit Owner shall notify the Board in writing of their intent to lease their Unit. The Board shall maintain a list of those Unit Owners who have notified it of an intent to lease their Unit and shall grant permission to Unit Owners to lease their Unit in the same order the Board receives the written notice of intent to lease a Unit from the Unit Owners. No permission shall be granted to lease a Unit until less than twenty percent (20%) of the Units at Clearwater Cove are occupied by non-Unit Owners.
- 1.6 **Restrictions Not Applicable.** The restrictions contained herein shall not apply:
- (a) To a Unit Owner who is a member of the military and is temporarily deployed out of the State of Utah, and by reason of the temporary deployment is required to move from the Unit during the period of temporary military deployment. The Unit Owner who is temporarily deployed may lease their Unit during the period of temporary military deployment. However, if the Unit Owner moves from the Unit due to a permanent change of station (PCS) the rental restrictions shall continue to apply to that Unit and Unit Owner and the exemption herein shall terminate;
  - (b) To a parent, grandparent, or child who is a Unit Owner and leases their Unit to a family member who is a parent, grandparent, child, grandchild, or sibling of the Owner;
  - (c) To a Unit Owner who moves at least 30 miles away from the Unit by reason of being relocated by the Unit Owner’s employer, if relocation of the Owner is scheduled by the employer for a period of less than two years;
  - (d) To a Unit Owner who moves at least 30 miles away from their Unit due to temporary (less than three years) humanitarian, religious or charitable activity or service and leases their Unit with the intent to return to occupy the Unit when the humanitarian, religious or charitable service has concluded, or

- (e) To a Unit owned by a trust or other entity created for estate planning purposes, if the trust or other estate planning entity was created for the estate of the current Resident of the Unit or the parents, grandparent, child, grandchild, or sibling of the current Resident of the Unit.
- (f) Units that are leased under the exceptions contained in this Paragraph 1.6 shall not be counted toward the twenty percent (20%) cap on rental restrictions.

- 1.7 **Grandfather Clause.** Those Units that are occupied by non Unit Owners at the time this Amendment is recorded at the Davis County Records Office may continue to be occupied by non Unit Owners until the Unit Owner sells, conveys or transfers the Unit, occupies the Unit, or an officer, Owner, member, trustee, beneficiary, director, or person holding a similar position of Ownership or control of an entity or trust that holds an Ownership interest in the Unit, transfers the Unit or occupies the Unit. A list of Units to which this section 1.7 applies is attached as Exhibit "B".
- 1.8 **Transfer of Unit.** For purposes of section 1.7, a transfer occurs when one or more of the following occur: (a) the conveyance, sale, or other transfer of a Unit by deed; (b) the granting of a life estate in the Unit; or (c) if the Unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.
- 1.9 **Tracking.** The Board shall create by rule or resolution, procedures to determine and track the number of rentals and Units in Clearwater Cove subject to the provisions described in sections 1.5, 1.6 and 1.7 above, and shall ensure consistent administration and enforcement of the rental restrictions in this Amendment.
- 1.10 **Rental Unit Defined.** As used herein, "Rentals", "Rental Unit" or "Unit" means a Residential Lot or Unit owned by an Owner that is Occupied by one or more individuals while, at the same time, the Unit Owner does not occupy the Unit as the Owner's primary residence.
- 1.11 **Renting Defined.** As used herein, "Renting" or "Leasing" means a Unit that is owned by an Owner that is Occupied by one or more Non Owners while no Owner occupies the Unit as the Owner's primary residence. The payment of remuneration to an Owner by a Non Owner shall not be required to establish that the Non Owner is Leasing a Unit. Failure of a Non Owner to pay remuneration of any kind to the Owner shall not be considered when determining if a Unit is a Rental Unit.
- 1.12 **Non Owner Defined.** As used herein, "Non Owner" means an individual or entity that is not an Owner.
- 1.13 **Occupied Defined.** As used herein, "Occupied" means to reside in the Unit for ten (10) or more days in any thirty (30) day period. A Unit is deemed to be Occupied by a Non Owner if the Unit is Occupied by someone other than the Unit Owner.

- 1.14 **Single Family Defined.** "Single Family" means 1) a single person living alone or with the person's children, 2) up to three unrelated persons, or 3) a husband/wife relationship with or without children.
- 1.15 **Violation.** Any Unit Owner who violates the provisions of this 2019 Amendment in any manner, including but not limited to leasing their unit without first obtaining written authorization from the Board or by leasing their unit in violation of the twenty percent (20%) unit restriction, shall be subject to a complaint for damages and/or an injunction and order seeking to terminate the lease in violation of this Amendment. If the Association retains legal counsel to enforce this Amendment, with or without the filing of legal process, the violating Unit Owner shall be liable for all costs and expenses incurred by the Association, including but not limited to attorney fees and court costs incurred by the Board in enforcing this Amendment.
- 1.16 **Temporary Defined.** Nothing herein shall prohibit an Owner from permitting a guest or visitor from temporarily residing in his or her Unit, while the Owner is present. As used in this paragraph, "temporarily" mean for a period not exceeding fifteen (15) days in any thirty (30) day period.
- 1.17 **Severability.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

## ARTICLE II ELECTRONIC NOTIFICATION

- 2.1 **Notification by Mail, Website and Email.** Any notice permitted or required to be delivered by the Board or from the Association to the Owners may be delivered either personally, by U.S. mail, or by electronic means.
- 2.2 **U.S. Mail.** If notice is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Owner at the address given by such person to the Board of Directors for the purpose of service of such notice or to the unit of such person if no address has been given. Such addresses may be changed by Owner from time to time by notice in writing to the Board of Directors.
- 2.3 **Electronic Notice.** If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Declaration or amendments thereto may be sent by electronic means, including but not limited to text message, email, Facebook, Instagram, the Association's website or any other well known and widely used electronic means. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address to which notice was sent. When notices are sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well-known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings and business to the electronic address of the Owners. The Association secretary

shall thereafter send an electronic notice, via email or a comparable electronic means, of all Association meetings and business to those Owners who do not object to electronic notification in this manner. A member may, by written demand, require the Association to provide notice to the lot owner by mail.

- 2.4 **Personal Notice.** If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's unit, or by securely attaching a copy of the notice to the front entry door of the Owner's unit.

### **ARTICLE III REPEAL OF CONFLICTING LANGUAGE**

- 3.1 **Repeal.** If any language or requirements contained in the 2019 Amendment or any other of the Governing Documents contradicts or violates any provision contained in this Amendment, such provisions are hereby repealed and shall no longer be enforceable.
- 3.2 **Severable.** The provisions of this 2019 Amendment shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

*[Certification on Following Page]*

**CERTIFICATION**

It is hereby certified that Residential Lot Owners holding more than 67% of the undivided ownership interest in the common areas and facilities have voted to approve these amendments.

IN WITNESS WHEREOF, we have affixed our signatures this 21 day of October, 2019.

**CLEARWATER COVE HOMEOWNERS ASSOCIATION**  
a Utah nonprofit corporation

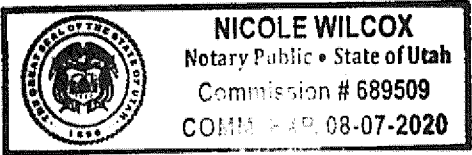
By: [Signature]  
Its: President

By: [Signature]  
Its: Board Member

STATE OF UTAH            )  
  :SS  
COUNTY OF DAVIS        )

On this 21 day of October, 2019, personally appeared before me David E. Adams II and, J. Stuart Adams who, being by me duly sworn, did say that they are the President and Board Member (officers) of Clearwater Cove Owners Association and that the within and foregoing instrument was signed in behalf of said Association and they duly acknowledged to me they executed the same.

[Signature]  
Notary Public



## **LAYTON CITY CONSENT TO AMENDMENT**

Attached is Layton City's consent as required by the Association's documents.





Community • Prosperity • Choice

Mayor • Scott Freitag  
City Manager • Alex R. Jensen

• Office of the City Attorney •  
Gary R. Crane • City Attorney  
Telephone: (801) 336-3590  
Fax: (801) 336-3595

October 15, 2019

Clearwater Cove Homeowners Association  
Attn: Rich Jones

Layton City hereby consents to Clearwater Cove recording an Amendment to the Declaration of Covenants, Conditions and Restrictions of Clearwater Cove, a Planned Residential Unit Development ("Amendment"). The Amendment consented to contains a Rental Restriction provision and an Electronic Notification provision. By consenting to this Amendment Layton City is not endorsing or intending to endorse the provisions in the Amendment, and is providing this endorsement solely as an accommodation to the Association as required by Article 13.02 (c) of the Declaration of Covenants, Conditions and Restrictions of Clearwater Cove, recorded on May 21, 2002, as Entry Number 1755341, in the Recorders Office of Davis County, Utah.

Sincerely,

Gary R. Crane  
Layton City Attorney



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**CLEARWATER COVE**

All of Lots 11 thru 15, Clearwater Cove - A PRUD, Phase 1 PUD, Layton City, Davis County, Utah  
11-507-0011 thru 0015

All of Lots 21 thru 26, Clearwater Cove - A PRUD, Phase 2 PUD, Layton City, Davis County, Utah  
11-508-0021 thru 0026

All of Lots 31 thru 34, Clearwater Cove - A PRUD, Phase 3 PUD, Layton City, Davis County, Utah  
11-512-0031 thru 0034

All of Lots 41 thru 44, Clearwater Cove - A PRUD, Phase 4 PUD, Layton City, Davis County, Utah  
11-513-0041 thru 0044

All of Lots 51 thru 54, Clearwater Cove - A PRUD, Phase 5 PUD, Layton City, Davis County, Utah  
11-526-0051 thru 0054

All of Lots 61 thru 65, Clearwater Cove - A PRUD, Phase 6 PUD, Layton City, Davis County, Utah  
11-527-0061 thru 0065

All of Lots 71 thru 74, Clearwater Cove - A PRUD, Phase 7 PUD, Layton City, Davis County, Utah  
11-528-0071 thru 0074

All of Lots 81 thru 85, Clearwater Cove - A PRUD, Phase 8 PUD, Layton City, Davis County, Utah  
11-540-0081 thru 0085

All of Lots 91 thru 92, Clearwater Cove - A PRUD, Phase 9 PUD amd, Layton City, Davis County, Utah  
11-566-0091 thru 0092 ca

All of Lots 101 thru 102, Clearwater Cove - A PRUD, Phase 10 PUD, Layton City, Davis County, Utah  
11-542-0101 thru 0102

All of Lots 111 thru 114, Clearwater Cove - A PRUD, Phase 11 PUD, Layton City, Davis County, Utah  
11-574-0111 thru 0114

All of Lots 122 thru 123, Clearwater Cove - A PRUD, Phase 12 PUD, Layton City, Davis County, Utah  
11-567-0122 thru 0123

All of Lots 131 thru 132, Clearwater Cove - A PRUD, Phase 13 PUD, Layton City, Davis County, Utah  
11-614-0131 thru 0132

All of Lots 141 thru 142, Clearwater Cove - A PRUD, Phase 14 PUD, Layton City, Davis County, Utah  
11-625-0141 thru 0142

All of Lots 151 thru 153, Clearwater Cove - A PRUD, Phase 15 PUD, Layton City, Davis County, Utah  
11-635-0151 thru 0152

All of Lots 161 thru 165, Clearwater Cove - A PRUD, Phase 16 PUD, Layton City, Davis County, Utah  
11-572-0161 thru 0165

All of Lots 171 thru 174, Clearwater Cove - A PRUD, Phase 17 PUD, Layton City, Davis County, Utah  
11-562-0171 thru 0174

All of Lots 181 thru 185, Clearwater Cove - A PRUD, Phase 18 PUD, Layton City, Davis County, Utah  
11-563-0181 thru 0185

All of Lots 191 thru 193, Clearwater Cove - A PRUD, Phase 19 PUD, Layton City, Davis County, Utah  
11-596-0191 thru 0192

All of Lots 201 thru 206, Clearwater Cove - A PRUD, Phase 20 PUD, Layton City, Davis County, Utah  
11-601-0201 thru 0206

All of Lots 211 thru 215, Clearwater Cove - A PRUD, Phase 21 PUD, Layton City, Davis County, Utah  
11-615-0211 thru 0215

All of Lots 221 thru 224, Clearwater Cove - A PRUD, Phase 22 PUD, Layton City, Davis County, Utah  
11-607-0221 thru 0224

All of Lots 231 thru 234, Clearwater Cove - A PRUD, Phase 23 PUD, Layton City, Davis County, Utah  
11-608-0231 thru 0234

All of Lots 241 thru 245, Clearwater Cove - A PRUD, Phase 24 PUD, Layton City, Davis County, Utah  
11-616-0241 thru 0245

All of Lots 251 thru 254, Clearwater Cove - A PRUD, Phase 25 PUD, Layton City, Davis County, Utah  
11-636-0251 thru 0254

All of Lots 261 thru 265, Clearwater Cove - A PRUD, Phase 26 PUD, Layton City, Davis County, Utah  
11-637-0261 thru 0265

**EXHIBIT "B"**

**UNITS GRAND FATHERED UNDER SECTION 1.7**

## EXHIBIT B

BLDG	UNIT	ADDRESS	TAX ID NO.	OWNER of RECORD
1	2	613 East Clearwater Drive	11-504-0012	Kristen J Roundy
2	2	800 South Creek View Drive	11-508-0022	Michael Gearhart
2	3	796 South Creek View Drive	11-508-0023	Robert T & Lisa A Braithwaite - Trustees
2	5	790 South Creek View Drive	11-508-0025	Julie A Anderson and Brian W Steenblik
4	3	618 East Creek View Drive	11-513-0043	R Landon Maxfield and Michelle Billeter
4	4	622 East Creek View Drive	11-513-0044	Michael Glasmann
5	2	628 East Clearwater Drive	11-526-0052	California Real Estate Reserve LLC
8	1	664 East Clearwater Drive	11-540-0081	Vance C & Nancy H Pace - Trustees
8	4	672 East Clearwater Drive	11-540-0084	JLP Clearwater LLC
11	3	680 East Creek View Drive	11-574-0113	Michael & Tiffany Gearhart
16	1	724 East Clearwater Drive	11-572-0161	Troy & Mary Ann Olsen
16	3	732 East Clearwater Drive	11-572-0163	Dorothy L Rockholm - Trustee
17	4	717 South Clearwater Court	11-562-0174	8th & C Properties LLC
18	1	723 South Clearwater Court	11-563-0181	Robert T & Lisa A Braithwaite - Trustees
21	1	772 East Clearwater Court	11-615-0211	James W & Susan Dianne Branch - Trustees
22	1	738 South Clearwater Falls Drive	11-607-0221	Vance C & Nancy H Pace - Trustees
22	2	734 South Clearwater Falls Drive	11-607-0222	Buffalo Properties LLC
22	3	724 South Clearwater Falls Drive	11-607-0223	LGA Clearwater LLC
22	4	720 South Clearwater Falls Drive	11-607-0224	Russell & Lauren Tanner
23	2	704 South Clearwater Falls Drive	11-608-0232	Mas M & Shauna W Nakaya - Trustees
24	5	699 South Clearwater Falls Drive	11-616-0245	Christopher & Cindy Roybal
26	2	661 South Clearwater Falls Drive	11-637-0262	Steven C & Helen M Parkin - Trustees
<b>TOTAL UNITS</b>				