



Marijuana Prohibitions

November 16, 2013

P.O. BOX 389 Frisco, CO 80443

Attention All Lagoon Unit Owners and Renters

An HOA, its Members (Unit Owners), and Renters are legally bound to comply with the Declarations, Rules and Regulations (known collectively as the HOA's Governing Documents). They are an essential requirement for harmonious living in a covenant controlled community. The HOA has many rules and regulations that have nothing to do with the legality or illegality of an owner's actions. For example, Lagoon does not allow the harboring of pets by anyone but Unit Owners. Although having pets is not against the law, it is prohibited under the Governing Documents of our Association. Recent changes in Colorado State Law, allow the use and possession of marijuana under certain restrictions. However, its use and possession is currently in violation of Federal Law. "Article 4: Restrictions On Use of Units," which can be found in our Declarations (*Excerpts of which have been provided on the 2nd page of this document.), clearly addresses this issue for the Association and its Members. In addition, it specifically prohibits the growing, producing, or dispensing of marijuana in any Unit per Federal law.

Based on the above, the Lagoon Board of Directors further affirms that **marijuana may NOT be used in any fashion (e.g., smoking or edibles) for recreational or medical use on or in any Common Element or Limited Common Element at Lagoon.** Further, if a Unit Owner or Renter has a valid state issued marijuana Medical Registry Card, or chooses to use marijuana for recreational purposes, **any such use within a Unit CANNOT be detectible by sight or smell outside of the users Unit**, including any common hallways or decks (Limited Common Elements). Courts have held that those who live in common interest communities must be willing to give up a certain degree of personal choice in order to promote the welfare of the majority of the owners.

If you believe the above restrictions are being violated by anyone at Lagoon, please report the suspected violation to the HOA's professional managers, Americana Resort Properties, by phone (970-468-8363), or email (Lagoon700@aol.com). The Board has a legitimate responsibility and duty to enforce the HOA's Governing Documents, including the normal process of warning, notice, fines and liens.

Please remember that all Lagoon Unit Owners have an obligation to make all of their Household Members, Guests and Renters aware of the above restrictions.

Lagoon Board of Directors
November 16, 2013

Marijuana Prohibitions Cont.

* Excerpts from Article 4: Restrictions On Use of Units, as stated in our Declarations, which support this policy are:

- A. Section 4.1: Use and Occupancy Restrictions, General.** All the Units shall be held, conveyed, used, improved, occupied, owned, resided upon and secured subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Amended Declaration. These restrictions are general in nature and the Executive Board shall have the power to adopt, amend, repeal and enforce more specific and restrictive design and architectural guidelines, and rules, regulations, restrictions and policies as the Executive Board deems to be reasonable and necessary. No offensive or unlawful use may be made of any Unit or the Common Elements, and no unsightliness shall be permitted on or in any part of the Project. **No Unit shall be used for any purpose not in compliance with any local, state or federal law, statute or other ordinance, regulation, rule or code.** **Owners and Permitted Users shall comply with all applicable local, state or federal law, statute or other ordinance, regulation, rule or code.**
- B. Section 4.2: Residential Use of Units.** Units shall be used and occupied only for residential purposes, except as explicitly set forth in Article 4 of this Amended Declaration. Notwithstanding the above, a Unit may be used for home operated businesses, so long as such business is (i) allowed by zoning resolutions; (ii) **is not apparent or detectable by sight, sound, smell or vibration from the exterior of the Unit,** (iii) does not increase traffic or parking requirements within the Project; (iv) does not increase the insurance obligation or premium of the Association, and (v) **is not illegal under any Colorado or Federal law,** except that no Unit may be used for any business providing day care or child care services, or commercial pet housing, sheltering or training, whether licensed or unlicensed.
- C. Section 4.4: Controlled Substances.** **No Unit may be used to grow, produce or dispense any controlled substance, including, without limitation, marijuana, whether or not allowed under federal or state law, and no Owner may operate as a medical marijuana caregiver from his or her Unit.** "Caregiver" shall have the same meaning as that term is used in Article 18, Section 14 of the Colorado Constitution.
- D. Section 4.5 Noxious, Offensive, Dangerous Activities; Annoyance, Nuisance.** Except as expressly permitted by this Amended Declaration, **no noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Unit or the Common Elements, nor shall anything be done, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to the other Owners or Permitted Users.** **No Owner or Permitted User shall make or permit any disturbing noises nor do or permit anything to be done by others that will unreasonably interfere with the rights, comforts or convenience of other Owners or Permitted Users.** Determination of whether an activity violates this covenant shall be at the discretion of the Executive Board or a committee appointed by the Executive Board, and shall be subject to Rules adopted by the Executive Board.