

Easements, Maps, and Potential Trespass

Easements are limited rights to use another person's property for specific purposes. The scope of an easement generally depends on the language of the recorded documents and does not automatically authorize every type of use or activity.

During the development of this five-home complex, the developer retained authority over the development's overall appearance until construction was completed.

Section 9.1(c) of the 1999 Declaration authorized the developer, through the Rules and Regulations, to assign responsibility for maintenance, repairs, and replacement to the individual homeowners.

Section 2.2 of the 2002 Rules and Regulations assigned the individual homeowners responsibility for maintaining, repairing, and replacing exterior surfaces and landscaped areas.

Section 11.5 of the Declaration provides that expenses benefiting or relating to fewer than all five homes should be allocated to the affected owners. Applicable Colorado law may also restrict an HOA from charging an owner for services that were not provided to that owner or property.

An attached map compares the approved location of the ingress-and-egress easement with the location where the driveway was actually constructed.

The area shown in **red** on the map appears to be part of the property at 2011 Beaver Creek Point and outside the boundaries of the recorded ingress-and-egress easement. The recorded easement appears to permit the owners of the other homes to cross only designated portions of the property for access to and from their homes. If someone has not remove it there should be a line on the asphalt that indicates the 2011 north property line of the **red** area. There should be a white surveyor marker that indicates 2011 north west property corner. The northeast property corner is near the Beaver Creek Point street. The south east property cover is also marked.

The use of property outside the recorded easement may constitute an unauthorized entry or trespass when that use occurs without the property owner's permission or after previously granted permission has been revoked.

The HOA has taken the position that it continues to hold very broad easement rights over the individual properties for activities the HOA considers it wants to do. That position is disputed. The existence and scope of any easement should be determined from the specific language of the recorded Declaration, plats, maps, Rules and Regulations, and other governing documents.

The approved proposed PUD map was intended to govern the development. No record has been located showing that the Town of Avon approved changes to that map.

Several features shown or described in the approved development plans appear to have been reduced or changed during construction. These include the proposed 30 parking spaces, three garage parking spaces for each home, designated snow-storage areas, and other parking provisions.

Based on the recording dates of the relevant documents, it appears that the Town of Avon may have been aware only of the Master Declaration for Wildridge when it approved the development maps. The 2001 Beaver Creek Point Association and its separate Declaration appear to have been created or recorded after Avon accepted or approved the maps. The legal significance of this significance, if any, remains subject to review of the complete municipal and recorded-property records.

Readers should independently examine the original recorded documents, municipal approvals, plats, maps, and other relevant records. They should also obtain advice from a qualified Colorado real estate professional or attorney before relying on any interpretation presented on this website.