

12892200  
11/27/2018 9:48:00 AM \$67.00  
Book - 10733 Pg - 2736-2741  
ADAM GARDINER  
Recorder, Salt Lake County, UT  
MORRIS SPERRY  
BY: eCASH, DEPUTY - EF 6 P.

**FIRST AMENDMENT  
TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
SECOND AMENDMENT TO THE BY-LAWS  
FOR  
WEDGEWOOD WILLOWS CONDOMINIUMS**

This FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND SECOND AMENDMENT TO THE BY-LAWS FOR WEDGEWOOD WILLOWS CONDOMINIUMS (this "Amendment") is adopted by the Wedgewood Willows Homeowners Association, Inc. (the "Association").

**RECITALS**

1. The "Wedgewood Willows Condominiums Declaration of Covenants, Conditions and Restrictions" (the "Declaration") was recorded with the Salt Lake County Recorder's office on February 3, 1983, as Entry No. 3756489, in Book 5436, and beginning at Page 1123.
2. A plat, or survey map, for the Wedgewood Willows Condominium Project was recorded with the Salt Lake County Recorder's office on February 3, 1983, as Entry No. 3756488.
3. The By-Laws for the Association are attached to the Declaration as Appendix "B" (the "By-Laws"). An "Amendment to the Bylaws of Wedgewood Willows" was recorded with the Salt Lake County Recorder's office on April 29, 2011, as Entry No. 11175061, in Book 9921, and beginning at Page 4525.
4. The Association desires to amend the Declaration and By-Laws as set forth in this Amendment, in accordance with Utah Code Ann. § 57-8-16(7)(b), to prohibit the act of smoking within the Units and within 25 feet of all buildings and Limited Common Area and Facilities.
5. Unless otherwise set forth herein, the capitalized terms have their same meanings and definitions as stated in the Declaration.
6. This Amendment affects the real property located in Salt Lake County, State of Utah, described with particularity on Exhibit A, attached hereto and incorporated herein by reference.
7. All rights of the Declarant; therefore, no Declarant approval is required for this Amendment.
8. The Association, through its undersigned officers, hereby states that, in accordance with Section 13 of the Declaration, Article XI Section 1 of the By-Laws, and Utah

Code Ann. § 57-8-39(1), this Amendment was approved by the requisite number and percentage of owners lien holders with a first position security interest in the Units.

NOW, THEREFORE, in consideration of the foregoing Recitals, the Association, through the authorization of its President and Secretary, hereby executes this Amendment, which is effective as of its recording date with the Salt Lake County Recorder's office.

### AMENDMENT

(I) **Amendment No. 1.** Section 6(B)(6) of the Declaration is amended by adding the following sentence at the end of the section's current language:

As set forth in Article V, Section 16 of the By-Laws, smoking is prohibited within certain areas of the Condominium Project and any smoking activity in violation of Article V, Section 16 of the By-Laws or other rules concerning smoking shall constitute a nuisance and noxious activity.

(II) **Amendment No. 2.** Section 6 of the Declaration is amended by adding a new subsection titled "C. Enforcement" as follows:

C. Enforcement. The Unit Owner and the Unit Owner's tenant, leasee or any non-owner occupant(s) are joint and severally liable for any violations of the provisions of the Condominium Ownership Act (Utah Code § 57-8-1 *et seq.*, the "Act"), the Declaration, By-Laws, rules and regulations, or any other governing document of the Association. The Association or any Unit Owner has the right to enforce, by proceedings at law or in equity, all covenants, conditions, restrictions, and other provisions set forth in the Act, Declaration, By-Laws, rules and regulations, or any other governing document of the Association, including the right to prevent the violation of any such covenants, conditions, restrictions, and other provisions and the right to recover damages and other sums from the violating party. The Association's decision to pursue one remedy does not constitute a waiver of its right to pursue any other remedy, including but not limited to the following rights and remedies:

(1) The Association has the right to levy fines for violations of any provision of the Act, the Declaration, By-Laws, rules and regulations, or any other governing document of the Association.

(2) If a Unit Owner rents or leases the Unit then the Unit Owner shall be responsible for assuring compliance by Unit Owner's tenant, leasee, or non-owner occupant with the provisions of the Act, the Declaration, By-Laws, rules and regulations, and other governing documents of the Association. Failure by a Unit Owner to take legal action, including the institution of an eviction, forcible entry, or unlawful detainer proceeding against the Unit Owner's tenant, leasee, or non-owner occupant who is in violation of any provision of the Act or the

Association's governing documents within ten (10) days after receipt of written demand to do so from the Association's Governing Board of Trustees, shall entitle the Association to take any and all such action including the institution of proceedings of eviction, forcible entry, or unlawful detainer against the Unit Owner's tenant, leasee, or non-owner occupant. The Association, the Association's Governing Board of Trustees, and any agent retained by the Association to manage the Condominium Project or to pursue eviction proceedings shall not be liable to the Unit Owner or Unit Owner's tenant, leasee, or non-owner occupant for any eviction proceeding pursued under this section that is made in good faith. Any expenses incurred by the Association related to an eviction, including attorney fees, service fees, storage fees, constable or sheriff fees, and costs of suit, shall be charged as an Assessment against the Unit Owner.

(III) **Amendment No. 3.** Article I, Section 3 Section 6(B)(6) of the By-Laws is amended by adding the following sentence at the end of the section's current language:

Owners shall give a copy of the Declaration, By-Laws, rules and regulations, and other governing documents of the Association to all tenants, leasees, and other non-owner occupants and, even if Owner fails to give the tenant, leasee, or other non-owner occupant such documents, the Owner's tenant, leasee, or non-owner occupant is still subject to and bound by the provisions set forth in all of the Association's governing documents.

(IV) **Amendment No. 4.** Article V of the By-Laws is amended by adding the following Section 16:

Section 16. **Smoking Restriction.** Smoking is prohibited within the following areas in the Condominium Project: all Units; and within twenty-five (25) feet of any and all buildings, Limited Common Areas and Facilities, any playground area. It shall be a nuisance and prohibited under Article V, Section 11(c) of the By-Laws to permit or cause any smoke to drift or otherwise enter into any Unit or the Limited Common Area and Facilities of any Unit. Neither a Unit Owner or occupant complaining of smoke nor the Association responding to that complaint shall be required to close windows or doors, make repairs, or otherwise make any physical alteration to the Condominium Project or to any Unit to prevent drifting smoke from entering into that Unit or any balcony or patio associated with that Unit. It shall be the sole responsibility of the Unit Owner who is causing, or whose tenant or invitee is causing, the smoke to prevent or stop smoke from entering any other Unit or its Limited Common Area and Facilities, which may require, if other attempts to stop it are unsuccessful, the termination of smoking. The Governing Board of Trustees may adopt rules and regulations that further restrict smoking within the Common Areas to certain designated smoking areas. The Association relies upon the definitions of the terms "e-cigarettes" and "smoking" as used in the Utah Indoor Clean Air Act (Utah Code Ann. § 26-38-2 *et seq.*) in defining such terms for this section.

- (a) The term “e-cigarette”:
- (1) means any electronic oral device:
    - (i) that provides an aerosol or a vapor of nicotine or other substance; and
    - (ii) which simulates smoking through its use or through inhalation of the device; and
  - (2) includes an oral device that is:
    - (i) composed of a heating element, battery, or electronic circuit; and
    - (ii) marketed, manufactured, distributed, or sold as: an e-cigarette; e-cigar; e-pipe; or any other project name or descriptor, if the function of the project meets the definition of subsection (a)(1).
- (b) The term “smoking” means:
- (1) the possession of any lighted or heated tobacco product in any form;
  - (2) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains (i) tobacco or any plant product intended for inhalation; (ii) shisha or non-tobacco shisha; (iii) nicotine; (iv) a natural or synthetic tobacco substitute; or (v) a natural or synthetic flavored tobacco product;
  - (3) using an e-cigarette; or
  - (4) using an oral smoking device intended to circumvent the prohibition of smoking in this section.
- (c) The Governing Board of Trustees may adopt reasonable rules and regulations to address new non-combustible tobacco products that may not otherwise fall into the prohibition against smoking in this section to expressly include such products in this smoking prohibition.

(V) **Conflicts.** All remaining provisions of the Declaration and By-Laws and any prior amendments remain in full force and effect. In the case of any conflict between the provisions of this Amendment and the provisions of the Declaration or any prior amendments, the provisions of this Amendment in all respects govern and control.

(VI) **Incorporation and Supplementation of Declaration.** This Amendment is supplemental to the Declaration and By-Laws, which by reference are made a part hereof, and all the terms, definitions, covenants, conditions, restrictions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

IN WITNESS WHEREOF, the Association executes this AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND SECOND AMENDMENT TO THE BY-LAWS FOR WEDGEWOOD WILLOWS CONDOMINIUMS through the undersigned, and certifies that this Amendment was approved by (i) at least fifty-one percent (51%) of all Unit Owners and Unit Owners holding at least fifty-one percent (51%) of the total voting interests of the Association through a vote of the Association's members at a meeting and (ii) the requisite number of lien holders with a first position security interest in the Units.

Dated this 3<sup>rd</sup> day of July, 2018.

**WEDGEWOOD WILLOWS HOMEOWNERS ASSOCIATION**

By: Nancy Montgomery

Name: Nancy Montgomery  
President of the Association

By: Jake Wood

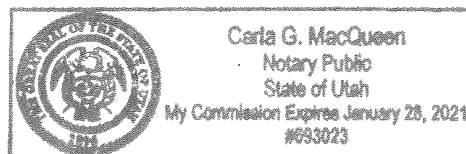
Name: JAKE WOOD  
Secretary of the Association

STATE OF UTAH                    )  
  :ss.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 3 day of July, 2018, by Nancy Montgomery, as President of Wedgewood Willows Homeowners Association, and Jake Wood, as Secretary of Wedgewood Willows Homeowners Association, who verified that they are authorized to execute this Amendment to the Declaration on behalf of the Association.

Carla G. MacQueen

Notary Public



# EXHIBIT A

## Legal Description

The following real property and improvements thereto lying and situated in Salt Lake County, State of Utah, to wit:

Beginning at a point North 0 17'45" East 488.49 feet from the Southeast corner of Lot 13, Block 17, Ten Acre Plat "A", Big Field Survey, also described as being North 0 17'45" East 201.26 feet and South 89 56' 38" West 33.0 feet from the Monument at the intersection of 300 East and 3545 South Streets, running

thence North 0 17'45" East 162.82 feet;  
thence South 89 56'22" West 549.46 feet;  
thence South 0 09'56" West 162.775 feet;  
thence North 89 56'38" East 549.09 feet to the point of beginning.  
Contains 2.053 acres.

All units of Wedgewood Willows Units 1 through 48.

### Parcel Nos.

16-31-129-001 (Common)	16-31-129-018	16-31-129-035
16-31-129-002	16-31-129-019	16-31-129-036
16-31-129-003	16-31-129-020	16-31-129-037
16-31-129-004	16-31-129-021	16-31-129-038
16-31-129-005	16-31-129-022	16-31-129-039
16-31-129-006	16-31-129-023	16-31-129-040
16-31-129-007	16-31-129-024	16-31-129-041
16-31-129-008	16-31-129-025	16-31-129-042
16-31-129-009	16-31-129-026	16-31-129-043
16-31-129-010	16-31-129-027	16-31-129-044
16-31-129-011	16-31-129-028	16-31-129-045
16-31-129-012	16-31-129-029	16-31-129-046
16-31-129-013	16-31-129-030	16-31-129-047
16-31-129-014	16-31-129-031	16-31-129-048
16-31-129-015	16-31-129-032	16-31-129-049
16-31-129-016	16-31-129-033	
16-31-129-017	16-31-129-034	