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Dubuque County Iowa  
John Murphy Recorder

File **2016-00013585**

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**SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS**

WHEREAS, Wedgewood Estates Property Owner's Association, Inc. is the homeowners association for the following described real property:

- Lots 1 through 25 of Block 1 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof;
- Lots 1 through 29 of Block 2 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof;
- Lots 1 through 25 of Block 3 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof;
- Lots 1 through 11 of Block 4 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof; and
- Lots 1 through 12 of Block 5 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof;
- Lots 1 through 25 of Block 6 of Wedgewood Estates, all in the City of Asbury, Iowa, according to the recorded plat thereof.

WHEREAS, Section 4 of Article VIII of the following Declarations of Covenants and Restrictions provide that the Association may modify the provisions of the covenants and restrictions:

- Declaration of Covenants and Restrictions filed July 2, 1998, as Instrument No. 10455-98 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed December 14, 1999, as Instrument No. 18598-99 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed November 8, 2002, as Instrument No. 21306-02 in the office of the Dubuque County Recorder;

- Declaration of Covenants and Restrictions filed November 13, 2003, as Instrument No. 30295-03 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed November 22, 2004, as Instrument No. 2004-00020494 in the office of the Dubuque County Recorder;
- Amended and Restated Declaration of Covenants and Restrictions filed December 6, 2011, as Instrument No. 2011-00018608 in the Office of the Dubuque County Recorder;

WHEREAS, by the approval of at least a two-thirds vote of the members, the Association passed a Resolution to amend, restate and combine the above described Declarations of Covenants and Restrictions in their entirety.

NOW THEREFORE, the Wedgewood Estates Property Owner's Association, Inc. hereby makes the following declaration as to limitations, restrictions, obligations and uses to which the above described property shall be subject, hereby specifying that said Second Amended and Restated Declarations of Covenants and Restrictions shall constitute covenants and restrictions to run with all of the above described property as provided by law, and shall be binding on all parties and persons claiming under them, their successors and assigns, and for the benefit of and limitations upon all future owners of the above described property, or any part thereof:

## ARTICLE I Definitions

Section 1. **Definitions.** The following words and terms, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to Wedgewood Estates Property Owner's Association, Inc., its successors and assigns.
- (b) "Block " shall mean any one or more of Blocks 1, 2, 3, 4, 5 and 6 of Wedgewood Estates in the City of Asbury, Iowa according to the recorded plats thereof.
- (c) "Committee" shall mean the Association's Architectural Review Committee.
- (d) "Common Properties" shall mean any real property and improvements thereon and any personal property or equipment owned or leased by the Association, and any replacement of or for any of the foregoing.
- (e) "Declaration" shall mean this Amended and Restated Declaration of Covenants and Restrictions.
- (f) "Developer" shall mean The Silver Group, L.C., and Iowa limited liability company.

- (g) "Dwelling Unit" shall mean and refer to any portion of a structure situated upon the Properties, and designed for occupancy by a Single Family.
- (h) "Living Area" shall mean that portion of a Dwelling Unit which is enclosed and customarily used for dwelling purposes and having not less than six cubic feet of head room, but shall not include open porches, open terraces, breezeways, attached garages, carports or accessory buildings.
- (i) "Lot" shall mean any plot of land described by number upon any recorded subdivision map of the Properties.
- (j) "Member" shall mean all those Owners who are members of the Association as herein after provided
- (k) "Owner" shall mean the record owner or, in the case of a contract sale, the Buyer, (whether one or more persons or entities), of a fee or undivided fee interest of any Lot or Dwelling Unit situated upon the Properties, but shall not include any such person or entity who holds such interest merely as a security for the performance of an obligation.
- (l) "Properties" shall mean and refer to all of the Lots described above as being part of this declaration of covenants.
- (m) "Single Family" shall mean one or more persons, each related to the other by marriage, adoption, the third degree of consanguinity, or any group of not more than three persons not all related, together with his, her or their domestic servants, maintaining a common household in a Dwelling Unit.
- (n) "Story" shall mean that portion of a Dwelling Unit included between the surface of any floor and the surface of a floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
- (o) "Structure" shall mean any building or other improvement erected or constructed upon any Lot, the use of which requires more or less permanent location on or in the ground, or attached to something having permanent location on or in the ground.

## **ARTICLE II**

### **Objectives of the Association**

The Associations objectives are to carry out the general purposes expressed in these Declarations; to provide for the preservation of the real property values, to assure that the aesthetic qualities of the Properties are maintained, that any improvements or changes in the Properties will be of good and attractive design and in harmony with the natural beauty of the area and the other dwellings in the area; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements within the Properties.

### **ARTICLE III**

#### **Architectural Review Process**

Section 1. **Association's Approval.** To achieve the Association's objectives set forth above, the Association shall have the power to administer this Declaration with regard to approving or disapproving those matters which are expressed herein and deemed to be within the jurisdiction of the Association.

Section 2. **Matters Requiring Approval.** Prior written approval shall be obtained from the Association with respect to all matters stated in this Declaration as requiring such approval. In addition thereto, at no time shall any building, wall, driveway access, or other Structure be connected, erected or maintained upon the Properties, nor shall any exterior addition to, change in, repair of, reconstruction of, or alteration therein be made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials, location, grade and proposed landscaping or any other matter having a visual impact on the Properties have been submitted to and approved in writing by the Association or the Committee. A repair or replacement of all or any section of an existing structure utilizing materials the same or substantially the same in type, style, and color to the original materials shall not require the advance approval of the Committee.

Section 3. **Procedure.** Whenever approval is required of the Association, appropriate plans and specifications shall be submitted to the Chair of the Committee. The Committee shall either approve or disapprove in writing such design, location, proposed construction, clearing activities and all other matters requiring approval within thirty (30) days after said plans and specifications have been submitted to it. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be unreasonably withheld or withheld for capricious reasons. If such plans and specifications are not approved or disapproved within thirty (30) days after submission, approval will not be required and this paragraph will be deemed fully complied with. A majority vote (a simple majority of the votes entitled to be cast by the Committee members present at a meeting at which a quorum is present) shall be required to take any action. The Committee's action, ruling or decision shall be in writing or set out in the Committee's minutes.

Section 4. **Appeals.** Any action, ruling or decision of the Committee may be appealed in writing to the Association Board of Directors by the affected Lot Owner(s) within thirty (30) days of entry of the Committee's action, ruling or decision. The written notice of appeal must state (1) the decision of the Committee appealed from, (2) the specific manner in which the Committee's decision appealed from was in error, and (3) the specific relief sought by the appealing Lot Owner(s). The Board may remand to the Committee for further action, affirm, reverse or modify the Committee's decision appealed from, or may grant other appropriate relief to the appealing Lot Owner(s). The Board's decision on an appeal shall be in writing or stated in the Board's minutes.

### **ARTICLE IV**

#### **General Restrictions**

Section 1. **Land Use.** All Lots within Blocks 1, 2, 3, 4, and 6 of the Properties shall be used only for those permitted uses as set forth in the R2 zoning code for the City of Asbury, Iowa, in force at the time the original covenants for Blocks 1, 2, 3, 4, and 6 were made of record to wit:

Block 1.....	July 2, 1998 (Single Family)
Block 2.....	December 14, 1999 (Single Family)
Block 3.....	November 8, 2002 (Single Family)
Block 4.....	November 13, 2003 (Single Family)
Block 6.....	November 22, 2004 (Single Family)

All Lots within Block 5 of the Properties shall be used only for those permitted uses as set forth in the R3 zoning code for the City of Asbury, Iowa, in force at the time the original covenants for Block 5 were made of record to wit: November 8, 2002 (Single Family Attached Dwelling).

All uses allowed in this section shall be subject to all restrictions and covenants as set forth in this Declaration. No Dwelling Unit shall be erected on any Lot, except for one unit that meets the zoning requirements for that Lot as set forth, and allowed for in this section. No separate units, including a garage or a utility shed, shall be erected on any Lot.

**Section 2. Subdivision of Lots.** No Lot shall be subdivided or re-subdivided to make smaller Lots. This restriction shall not prevent an Owner of two or more contiguous Lots from building one Dwelling Unit on more than one adjoining platted Lots, or two Dwelling Units on three or more adjoining platted Lots as shown on the plat of the Properties; provided, such Owner or Owners must replat said Lots into a single Lot; following all platting procedures required under ordinances of the City of Asbury, Iowa, and the statutes of the State of Iowa, to the end that said Lots are combined and only one Dwelling Unit is erected on each such replatted Lot.

**Section 3. Quality of Structures.** It is the intent and purpose of these covenants and restrictions to insure that Structure quality, design, workmanship and materials are compatible and harmonious with the natural setting of the area and other Structures within the Properties. All Structures shall be constructed in accordance with applicable government building codes and with more restrictive standards that may be required by the Association, the Committee or their successors and assigns under the Architectural Review Process.

**Section 4. Structural Restrictions.** No Dwelling Unit shall be erected or permitted exceeding two stories in height above grade. All Dwelling Units erected on a Lot within the Properties must be constructed with a minimum of three-quarters basement and no part of the dwelling shall be built upon a concrete slab. A Dwelling Unit shall have the following square footage requirements:

- (a) A two Story Dwelling Unit must have a minimum of 1200 square feet of living space on the main floor and no less than 1000 square feet of Living Area on the second floor, all above grade.
- (b) A one and one-half Story must have a minimum of 1200 square feet of Living Area on the main floor. The number of square feet approved for the second floor will be approved on a case by case basis.
- (c) All other dwellings shall have a minimum of 1600 square feet of Living Area, all above grade.

- (d) No Structure built on any Lot within the Properties will utilize vinyl siding and the facade of each Dwelling Unit will feature some type of masonry construction unless otherwise approved by the Association or its assigns. All exterior materials used in the construction of any dwelling are subject to the approval of the Association or its assigns.

No Structure shall contain a private garage for more than four (4) motor vehicles, though garage facilities for more than four (4) motor vehicles may be approved by the Association if not more than a three (3) vehicle facility is visible from a street within the subdivision.

**Section 5. Location of Structures on Lots.** The Association deems that the establishment of standard building setback lines for location of Structures on individual Lots is compatible with the objective of preserving the natural setting of the area and preserving and enhancing the existing features of natural beauty and visual continuity of the area. The Association therefore has established minimum setbacks to be fifty-three feet (53') from the closest point on the road in front of each Lot, twenty feet (20') from each side Lot line, and forty feet (40') from the rear of each Lot line, except that setbacks for all Lots on all cul-de-sacs will be determined on an individual basis. The placement of any Structure on any Lot will be subject to approval of the Association or its assigns. All dwellings shall present their most attractive fronts to the street in the subdivision upon which the Lot abuts.

An exception to the setback requirements may be obtained as to structures in the rear of each dwelling unit that do not substantially impede the line of sight across the property, including, but not limited to, benches, patios, or swing sets. The determination of whether such an exception shall be granted will be made on a case-by-case basis by the Committee and any such exception shall be proposed to the Committee pursuant to Article III, Section 2 of these covenants.

No such structure shall be placed within the easement area of any lot, as depicted on the plat.

The Association may require the removal of any structure placed within the setback area of any lot without the approval of the Committee. Such requirement shall state a reasonable period of time during which the Lot Owner may remove the offending structure. If such requirement is not complied with, the Association may take reasonable steps necessary to remove the structure or to have the structure removed, including entering the property to remove the structure. The decision not to exercise this right as to any structure for which approval was not sought or granted shall not act as a waiver of that right as to any other structure.

**Section 6. Temporary Structures.** No trailer, mobile home, recreational vehicle, tent, shack or other Structure except as otherwise permitted herein, and no temporary building or Structure of any kind shall be used for a residence, either temporary or permanent. Temporary Structures used during the construction of a Dwelling Unit shall be on the same Lot as the Structure, and shall be removed upon completion of construction. No Dwelling Unit or any other building shall be moved onto a Lot of the Properties for residential or any other purpose unless approved by the Association or its assigns.

**Section 7. Completion of Construction.** Any construction undertaken on any Lot shall be continued with diligence toward the completion thereof and construction of any Dwelling Unit shall be completed within one (1) year of the commencement of the construction, except that such period may be extended for a reasonable time by reason of an act of God, labor disputes, or other matters beyond the

Owner's or builder's control. No Structure shall be deemed completed until installation of approved landscaping. The Association or its assigns shall have the right to complete any construction not completed within such time and to:

- (a) recover the cost of same from the Owner; and
- (b) place a lien on the Lot in the amount of such cost.

**Section 8. Maintenance of Lots and Dwelling Units.** Each Lot Owner shall keep and maintain their property, whether occupied or unoccupied, and all improvements, buildings, and structures therein or thereon, in a clean and safe condition and in good repair, including but not limited to the seeding, watering, and mowing of all lawns, the weeding of all landscape beds, the pruning of trees, shrubbery and amass, the painting (or other appropriate external care) of all buildings, structures, or other improvements located thereon, and the absence of conditions constituting violations of applicable building, fire, and health codes, all in a manner and with such frequency as is consistent with good property management; provided, however, a Lot Owner may maintain a natural grass area or areas on the Lot with prior written approval of the Committee following submission by the Lot Owner of a written plan for a natural grass area or areas. As provided in this declaration, each Lot Owner shall be obligated to pay the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of the Lot Owner but which responsibility such Lot Owner fails or refuses to discharge.

**Section 9. Lot Appearance.** No Owner shall accumulate on his Lot junked vehicles, unused vehicles, litter, refuse, or other unsightly materials. Garbage shall not be allowed to accumulate for more than three (3) days and must be kept in adequate containers within the Dwelling Unit or garage. All driveways shall be of hard surfaced construction.

**Section 10. Firewood.** Firewood may be stored within the Dwelling Unit. If stored outside, it shall be stacked immediately adjacent to the rear of the residence in an orderly fashion. If the wood is purchased by the truckload, it must be cut and stacked within one (1) week of delivery date.

**Section 11. Parking and Storage.** All Lots shall have sufficient off-street parking to accommodate at least four (4) automobiles, including garage space. No campers, trailers, commercial vehicles, recreational vehicles, boats or snowmobiles; or like vehicles, shall be parked, kept or stored within the Properties except within a garage. No vehicle built for, or adapted to, or modified for racing purposes shall be kept or stored on the Properties.

Notwithstanding the above, a Lot Owner may temporarily park a camper, trailer, recreation vehicle or mobile home in a driveway within that Lot Owner's property for a period not to exceed forty-eight (48) hours.

A Lot Owner may not avoid compliance with the restrictions of this section by moving, re-parking, or relocating a vehicle solely for the purpose of compliance with this section.

Section 12. **Nuisance.** No obnoxious or offensive activity as prescribed by the Asbury City Code shall be carried on in any Dwelling Unit or upon any Lot within the Properties, nor shall anything be done thereon which may become an annoyance or nuisance to other persons and Lot Owners within the Properties. No plants or seeds or other things or conditions harboring, or breeding infectious plant disease or noxious insects shall be introduced or maintained upon any part of a Lot within the Properties.

Section 13. **Alteration of Landscape.** During construction, no trees, shrubs or plantings presently on the Lots within the Properties shall be removed except where the same will interfere with the construction of the Dwelling Unit erected upon such Lot, or when said removal has been approved by the Association or its assigns during construction, all trimmings, in whole or in part, from such growth shall be removed from the premises, and may not be disposed of in any part of the Wedgewood Estates Development.

Section 14. **Mailboxes.** Each Lot shall have a mailbox and post or masonry base of a type approved by the Association. Such box shall be positioned immediately adjacent to the curb on either side of the driveway. All mail boxes shall conform to height and distance requirements as required by the U.S. Postal Service. If the U.S. Postal Service requires cluster mail boxes then this section will be null and void.

Section 15. **Signs.** No signs, billboards or advertising device, except those used in the sale of any Lot or Dwelling Unit within the Properties shall be placed on any Lot or Dwelling Unit of the Properties that is not approved by the Association or its assigns; provided, however, any Lot Owner may display a sign of a reasonable size not to exceed a one-foot square relating to health and safety (e.g. invisible fence, lawn chemicals applied) or provided by a contractor for security services within 10 feet of any entrance to the Dwelling Unit, not to exceed four (4) signs; and, further provided, however, this Section shall not apply to stickers or signs placed in a window of a Dwelling Unit on the Lot not exceeding one-foot square.

Section 16. **Control of Animals.** No animals other than inoffensive common domestic household pets, such as dogs and cats, shall be kept on any Lots. No dogs, cats, or other household pets may be kept, bred or maintained for commercial purposes. Any such domestic animals kept as pets must be restrained, confined and kept off the premises of other Lot Owners and City owned properties within the Properties; provided further that such domestic pets must be kept quiet and orderly so as not to disturb the peaceful, and quiet enjoyment of other Lot Owners. No litter or offal shall be permitted to be uncontrolled for a period of more than twenty-four (24) hours on a pet Owner's Lot and must be removed immediately if said litter or offal occurs anywhere else within the Properties. All animals within the Properties must be on a leash at all times, except when in a Dwelling Unit, accompanied by its Owner on the Owner's Lot or confined by an electronic, underground fence system. No kennels, pens or runs shall be permitted on the Properties.

Section 17. **Home Occupations Prohibited.** No home occupation or profession shall be conducted on any Lot which results in an increase in vehicular traffic to the Properties. An increase in mail or parcel delivery vehicles shall not be deemed an increase in vehicular traffic.

Section 18. **Firearms; Shooting; Hunting.** No rifles, shotguns, revolvers, pistols, guns or other firearms shall be discharged within the Properties. No person shall throw stones, bricks or missiles of any kind or shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous



instruments or toys within the Properties. No hunting or trapping of any animals shall be permitted within the Properties.

**Section 19. Easements Reserved with Respect to Lots.** The Association reserves for itself, its successors and assigns, easements over each Lot, and the right to ingress and egress to the extent reasonably necessary to exercise such easements as follows:

- (a) Utility easements shown on any recorded plat of the Properties, except that if any plat fails to establish utility easements for such purposes then a ten (10') foot wide strip running along the side Lot lines, front Lot line and rear Lot line of the Dwelling Lots is reserved for the installation and maintenance of utility facilities, and incidental usage related hereto. Upon completion of the development of each Block within the Properties those utility easements which are not used will be abandoned
- (b) An easement is reserved for surface drainage over any natural drainage areas within the dwelling Lots.
- (c) The Owner shall not place any Structure on any such easement and shall be responsible for maintaining the easement, however, any damages caused by the user of the easement shall be repaired and restored to its original condition by such user within a reasonable period of time.
- (d) Prior to commencement of construction upon any Lot, the Association, its successors, assigns, or licensees, shall have the right to enter upon any Lot for the purpose of removing offensive underbrush or for pest control purposes. No such entry shall be deemed a trespass.
- (e) No Owner shall have claim or cause of action, except as herein provided, against Developer, its successors, assigns, or licensees arising out of exercise or non-exercise or any reserved easement except cases of willful or wanton misconduct.

**Section 20. Location of Satellite Dishes.** No satellite dishes shall be allowed on any Lot within the subdivision unless located to the rear of a Dwelling Unit on said Lot, and placed in an unobtrusive location on said Lot. The location of said dish shall be approved by the Committee or its successors and assigns.

**Section 21. Concrete.** Owners, or their subcontractors, who are constructing a Dwelling Unit on any of the Lots of the Properties are prohibited from dumping concrete on any other Lot, City owned properties within the Properties, or public right of way.

**Section 22. Soil Erosion.** Lot Owners will be required to keep soil erosion to a minimum as required by law, and will not allow soil to erode onto any other Lot, any public right-of-way, or onto any City owned property within the Properties.

**Section 23. Speed Limits.** Speed limits within the Properties, for any vehicle, shall be limited to 20 MPH.

Section 24. **Types of Roofing.** Roofing materials may incorporate the following: Asphalt shingles or products designed to look like asphalt shingles. Roof forms should be consistent in form and pitch on all elevations.

Section 25. **Roof-mounted Solar Panels.** Roof-mounted solar panels and other similar devices must be reviewed and approved by the Committee, including but not limited to design and placement. No ground level solar paneling will be permitted.

Section 26. **Fences.** Fences of any kind (except pool fences as provided below) are not allowed in the Properties. Fences constructed around pool areas will be subject to the minimum requirements as set by the City of Asbury, and will be subject to approval of the Committee prior to construction of said fence.

Section 27. **Pre Engineered Structures.** Factory built, pre built, pre fabricated, pre constructed, or similar type Structures will not be allowed in the Properties, except that the Committee will have the right to approve, at their sole discretion, certain types and styles of these types of Structures. Refer to Article IV., Section 3, "Quality of Structures".

Section 28. **Clotheslines.** Although no permanent clothesline apparatus shall be erected, installed or maintained on any Lot, removable or retractable clotheslines are allowable under the following conditions. Any clothesline or similar devise intended to be used for the airing or drying of clothes, articles of wearing apparel, or other items of personal property, when located outside of exterior walls of any existing improvement shall be attached to portable or retractable poles, which poles and lines shall be retracted or removed by the Owner when not in active use. In addition, no articles may remain on the clothesline for more than twelve (12) consecutive hours. Prior to installation, a written description of the clothesline Structure and its location on the Lot must be specifically approved by the Committee.

Section 29. **Road Markers.** Plastic road marker stakes shall be allowed for road demarcation beginning on November 1st of each year. The stakes used must be of a sort manufactured and sold for that purpose. Metal or wooden stakes may not be used. Any stakes so installed must be removed not later than March 1st of the following year. The Association may demand the removal of any stakes still in place after March 1st of each year. Such demand shall state a reasonable time period during which the Lot Owner may remove the stakes.

Temporary exceptions to the above dates may be allowed by the Association for community or neighborhood functions such as tours of homes or garage sales but such exception shall be limited to the dates of the function and twenty-four (24) hours before and after.

## **ARTICLE V**

### **Membership and Voting Rights in the Association**

Section 1. **Membership.** Every person or entity who is a record Owner of a fee, or undivided fee, interest in any Lot or living unit which is subject by covenants of record to assessment by the

Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

**Section 2. Voting Rights.** The Association shall have one class of voting membership. Members shall be all those Owners as defined in Section 1. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

**Section 3. Proxies.** At all meetings of the Members, a Member may vote in person or by proxy. All proxies shall be in writing and shall be filed with the Secretary prior to the meeting at which the same are to be used. Every proxy shall be revocable. A notation of such proxies shall be made in the minutes of the meeting. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

**Section 4. Action by Written Ballot.** Any action which may be taken at any annual, regular, or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. A written ballot shall not be revoked.

A written ballot shall do both of the following:

- (a) Set forth each proposed action.
- (b) Provide an opportunity to vote for or against each proposed action.

Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall do all of the following:

- (a) Indicate the number of responses needed to meet the quorum requirements.
- (b) State the percentage of approvals necessary to approve each matter other than election of directors.
- (c) Specify the time by which a ballot must be received by the Association in order to be counted.

A written ballot may be delivered and a vote may be cast on that ballot by electronic transmission. An electronic transmission of a written ballot shall contain or be accompanied by information indicating that a Member, a Member's agent, or a Member's attorney authorized the electronic transmission of the ballot.

## **ARTICLE VI**

### **Covenant for Maintenance Assessments**

**Section 1. Creation of the Lien and Personal Obligation with Respect to Assessments.** Each Owner, for each Lot within the Properties subject to the provisions of this Declaration hereby covenants, by acceptance of a deed therefore or contract for the purchase thereof (whether or not it shall be so expressed in any such deed or contract), shall be deemed to covenant for himself, his heirs, representatives, successors and assigns to pay to the Association an annual assessment. All such assessments, together with interest thereon and cost of collection thereof, shall be a charge on the land with respect to which such assessments are made and shall be a lien against such Lot, together with interest thereon and costs of collection thereof, and also shall be the personal obligation of the person who is the owner of such assessed land at the time assessment became due.

**Section 2. Purpose of Assessments - Annual Assessments.** The annual assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Members, and for the improvement and maintenance of any real or personal property owned or leased by the Association, and to provide services and facilities related to all or any of the foregoing matters, and of the Members, including, but not limited to, discharge of the obligations of the Association as imposed by this Declaration, payment of taxes, if any, upon any real or personal property owned or leased by the Association, payment of insurance with respect to any real or personal property owned or leased by the Association and repair, replacement and additions thereto, payment for any services provided to Members with respect to the foregoing matters, and for the cost of labor, equipment, materials, management and supervision thereof.

**Section 3. Amount of Assessment, Change in Amount and Date of Commencement.** The annual assessment for each year, commencing with the assessment made with respect to the calendar year 1999, shall not be less than twenty-five dollars (\$25.00). Said assessment shall be due the first of day of every year beginning year 1999, and shall be considered delinquent as of March 1st of the year of assessment. No assessment shall be made with respect to any period prior to 1999. The Association, by resolution adopted in the manner provided in its By-Laws may increase the amount of the annual assessment for any future year. The amount of the increase for each Lot shall not exceed the total actually expended for such maintenance for that year by the Association, divided by the total number of Lots subject to assessment in the Subdivision, unless an annual assessment of a greater amount for such year shall have been approved by vote of Members as provided in the By-Laws of the Association. The annual assessments described herein must be fixed at a uniform rate for all Lots and be consistent with Section 6 below.

**Section 4. Interest; Remedies of the Association.** Delinquent assessments shall bear interest at the highest legal interest rate chargeable to individuals from the date of delinquency. The Association may bring either an action at law against the person personally obligated to pay the same, or to foreclose the lien against the property and there shall be added to the amount as such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgment shall include the interest as provided by law and reasonable attorney's fees to be fixed by the court, together with the cost of such action.

Section 5. **Exempt Property.** Notwithstanding the foregoing, no assessments, charges, or liens shall be assessed with respect to Lots 1, 2, 3, 5 and 6 of Block 5 now owned by the Developer, but such exemption shall apply only so long as such Lot is owned by the Developer.

Section 6. **Proof of Payment.** The Association upon request and payment of a service fee of not more than fifteen dollars (\$15.00) at any time shall furnish any Owner liable for any assessment a certificate in writing signed by an officer of the Association setting forth what assessments, if any, have been made with respect to said Owner's property and which are unpaid. Such certificate shall be conclusive evidence with respect to the matters certified therein.

## **ARTICLE VII**

### **General Provisions**

Section 1. **Duration; Amendment.** The covenants and restrictions set forth in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owners of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-one (21) years from the date this declaration is recorded with the Dubuque County, Iowa, Recorder, after which time said covenants may be extended by the filing, by a Lot Owner, of a verified claim under Iowa Code Section 614.24, or any successor statute, with the Dubuque County, Iowa, Recorder.

Section 2. **Notices.** Any notice sent or required to be sent to any Member or Lot Owner under the provisions of this Declaration shall be deemed to have been properly given when personally delivered, when mailed, postage prepaid, to the last known address of the person who appears as a Member or Lot Owner on the records of the Association at the time of mailing, or when delivered by electronic transmission or other electronic means. If electronically transmitted, such notice shall be deemed to be delivered when electronically transmitted to the Member or Lot Owner in a manner authorized by the Member or Lot Owner.

Section 3. **Enforcement/Fines.** Enforcement of these covenants and restriction shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction. Such action may seek one or more of the following remedies:

- (a) Against a person or persons, to restrain violation;
- (b) Against a person or persons, to recover damages;
- (c) Against the land, to enforce any lien created by these covenants or arising by operation of law, and;
- (d) To recover litigation costs, including reasonable attorney's fees and expenses.

The property owner shall be liable to the Association for any costs incurred in enforcing these covenants.

Following an unmet demand for compliance with these covenants or of any rule or regulation adopted by the Association, the Association may levy a fine against the Lot Owner. Such fines shall be set forth in a schedule to be adopted by the Association. Such schedule may be from time to time amended by the Members as provided in Article VIII, Section 4. A fine will only be assessed after a Lot Owner has been notified of a violation of these covenants or of any rule or regulation and that Lot Owner

has been given a reasonable time to remedy such violation. A Lot Owner may request a hearing before the Association's Board of Directors for the purposes of disputing any such alleged violation. No fine will be levied against a Lot Owner who comes into compliance with these covenants within the time frame provided. Such time frame may be extended by the Association's Board of Directors for good cause shown.

**Section 4. Modification.** By recorded supplemental declaration, the Association may modify any of the provisions of this declaration or any supplemental declaration for the purposes of clarification or otherwise, provided that it shall not substantially alter the scheme of this declaration or any succeeding supplemental declaration and provided that modification is approved by two-thirds of the votes which Members are entitled to cast.

**Section 5. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order in no way shall affect any other provisions, which shall remain in full force and effect.

**Section 6. Occupants.** All of the obligations, liabilities, and covenants imposed upon Owners hereunder shall also be applicable to and imposed upon all persons occupying any Lot who are not Owners.

**Section 7. Rules and Regulations.** The Association may promulgate such rules and regulations with respect to the Properties as it may determine are necessary.

**Section 8. Deeds.** Each Owner and purchaser under an installment sale contract accepts such conveyance subject to restrictions, covenants, and liabilities hereby created, reserved or declared, all as though same were recited at length in such deed or installment sales contract.

**Section 9. Words and Phrases** herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

## **ARTICLE VIII**

### **Interaction with Condominiums**


The Developer has platted Lots 1 through 12 inclusive of Block 5 of the Properties and will construct and develop a twelve (12) building condominium project thereon. The Developer has created Wedgewood Condominium Association, an Iowa non-profit corporation, charged with administering the Declaration of Wedgewood Condominium filed October 28, 2002, with the Dubuque County, Iowa, Recorder as Instrument No. 20100-02. Notwithstanding any other provisions found in this Declaration of Covenants and Restrictions to the contrary, the following provisions apply:


**Section 1.** Wedgewood Condominium Association shall govern all matters pertaining to the condominium project constructed on Lots 1 through 12 inclusive of Block 5 of the Properties. The Association shall exert no jurisdiction as to issues arising out of the Declaration of Wedgewood Condominium.

**Section 2.** Each Unit in the Wedgewood Condominium Association shall be constructed to be a Lot as defined in this Declaration and each Unit Owner in the Wedgewood Condominium Association

shall be construed as an Owner under this Declaration. Thus, each Unit Owner shall be considered a Member of the Association and entitled, pursuant to this Declaration, to one vote per Unit, equal assessments by the Association as that established for any other Lot.

IN WITNESS WHEREOF, the foregoing instrument has been executed this 5th day of October, 2016.

By:   
Jared M. Sigwarth, President

By:   
Steven M. Thompson, Secretary

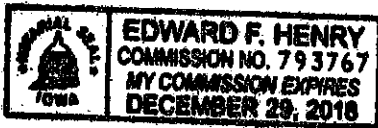
### Schedule of Fines

Failure to obtain approval for a project requiring such approval under these Covenants	\$250.00
A violation not remedied within the stated time period	\$25.00/day



STATE OF IOWA                    )  
  ) ss:  
COUNTY OF DUBUQUE        )

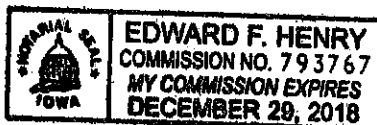
On this 5th day of October, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Jared M. Sigwarth, to me personally known, who being by me duly sworn (or affirmed) did say that he is the President of Wedgewood Estates Property Owner's Association, Inc., an Iowa non-profit corporation, and that said instrument was signed on behalf of the said non-profit corporation by authority of its membership and acknowledged the execution of said instrument to be the voluntary act and deed of said non-profit corporation by it and his/her voluntary executed.



Edward F. Henry  
Notary Public in and for the State of Iowa

STATE OF IOWA                    )  
  ) ss:  
COUNTY OF DUBUQUE        )

On this 5th day of October, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven M. Thompson, to me personally known, who being by me duly sworn (or affirmed) did say that he is the Secretary of Wedgewood Estates Property Owner's Association, Inc., an Iowa non-profit corporation, and that said instrument was signed on behalf of the said non-profit corporation by authority of its membership and acknowledged the execution of said instrument to be the voluntary act and deed of said non-profit corporation by it and his/her voluntary executed.



Edward F. Henry  
Notary Public in and for the State of Iowa

COPY



Doc ID: 010423950003 Type: GEN  
Kind: AMEND TO RESTRICT COVENANTS  
Recorded: 01/21/2020 at 04:23:31 PM  
Fee Amt: \$45.00 Page 1 of 3  
Dubuque County Iowa  
John Murphy Recorder

File 2020-00000834

Prepared by and Return to: Jessica L. McNamara, AT0013092, 890 Main Street, Dubuque, IA, (563) 556-4011

**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
OF WEDGEWOOD ESTATES PROPERTY OWNER'S ASSOCIATION**

WHEREAS, Section 4 of Article VIII of the following Declarations of Covenants and Restrictions provide that the Wedgewood Estates Property Owner's Association may modify the provisions of the covenants and restrictions:

- Declaration of Covenants and Restrictions filed July 2, 1998, as Instrument No. 10455-98 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed December 14, 1999, as Instrument No. 18598-99 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed November 8, 2002, as Instrument No. 21306-02 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed November 13, 2003, as Instrument No. 30295-03 in the office of the Dubuque County Recorder;
- Declaration of Covenants and Restrictions filed November 22, 2004, as Instrument No. 2004-00020494 in the office of the Dubuque County Recorder;
- Amended and Restated Declaration of Covenants and Restrictions filed December 6, 2011, as Instrument No. 2011-00018608 in the Office of the Dubuque County Recorder; and
- Second Amended and Restated Declaration of Covenants and Restrictions filed October 10, 2016, as Instrument No. 2016-00013585.

WHEREAS, by the approval of at least a two-thirds vote of the members, the Association passed a Resolution to amend the Second Amended and Restated Declaration of Covenants and Restrictions, as follows:

ARTICLE IV, Section 16 is deleted in its entirety and the following is substituted in lieu thereof:

**"Section 16. Control of Animals.** No animals other than inoffensive common domestic household pets, such as dogs and cats, shall be kept on any Lots. No dogs, cats, or other household pets may be kept, bred or

maintained for commercial purposes. Any such domestic animals kept as pets must be restrained, confined and kept off the premises of other Lot Owners and City owned properties within the Properties; provided further that such domestic pets must be kept quiet and orderly so as not to disturb the peaceful, and quiet enjoyment of other Lot Owners. No litter or offal shall be permitted to be uncontrolled for a period of more than twenty-four (24) hours on a pet Owner's Lot and must be removed immediately if said litter or offal occurs anywhere else within the Properties. All animals within the Properties must be on a leash at all times, except when in a Dwelling Unit, accompanied by its Owner on the Owner's Lot or confined by an electronic, underground fence system. No kennels, pens or runs shall be permitted on the Properties.

Notwithstanding the foregoing, a Lot Owner who is currently employed as a peace officer with a K-9 Unit operated by any federal, state or local law enforcement authority, may construct a kennel, pen and/or run for the K-9 dog; as long as an outdoor kennel is a requirement of such a role. If said Lot Owner constructs a kennel, pen and/or run on the Lot Owner's lot, Architectural Review Committee approval is required.

If the Lot Owner discontinues his service as a peace officer with a K-9 Unit, any kennel, pen and/or run previously constructed shall be removed within 30-days of such discontinuance. If the Lot Owner sells their home, any kennel, pen and/or run previously constructed shall be removed prior to closing of the Property.

Any such kennel constructed should be limited in size and constructed to conform to the residence on the lot in both color and material. Placement of kennel should be in a place with the least visibility from a street or roadway within Wedgewood Estates or Asbury Road; and conform to all City of Asbury Easements; as well as all side or rear setback requirements of the Covenants, unless a side or rear setback exception is provided as outlined in Article IV. Section 5. Kennel should be constructed so as to be easily removed if such role is discontinued or upon the sale of the residence."

IN WITNESS WHEREOF, the foregoing instrument has been executed this 17<sup>th</sup> day of January, 2020.

By: Jared Sigworth  
JARED SIGWORTH, President

By: Keefe Caherty  
Keefe Caherty, Vice President

STATE OF IOWA )  
 ) ss:  
COUNTY OF DUBUQUE )

On this 17<sup>th</sup> day of January, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Jared Sigworth, to me personally known, who being by me duly sworn (or affirmed) did say that he/she is an Officer/Manager of Wedgewood Estates Property Owner's Association, Inc., an Iowa non-profit corporation, and that said instrument was signed on behalf of the said non-profit corporation by authority of its membership and acknowledged the execution of said instrument to be the voluntary act and deed of said non-profit corporation by it and his/her voluntary executed.



Jennifer Abitz  
Notary Public in and for the State of Iowa

STATE OF IOWA )  
 ) ss:  
COUNTY OF DUBUQUE )

On this 17<sup>th</sup> day of January, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Reefe Caherty, to me personally known, who being by me duly sworn (or affirmed) did say that he/she is an Officer/Manager of Wedgewood Estates Property Owner's Association, Inc., an Iowa non-profit corporation, and that said instrument was signed on behalf of the said non-profit corporation by authority of its membership and acknowledged the execution of said instrument to be the voluntary act and deed of said non-profit corporation by it and his/her voluntary executed.



Jennifer Abitz  
Notary Public in and for the State of Iowa