



FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM
OF WHISPERING SANDS, A CONDOMINIUM

The WHISPERING SANDS CONDOMINIUM ASSOCIATION, a Maine non-profit corporation, hereby certifies that the following amendment to the Declaration of Condominium of Whispering Sands, A Condominium, dated June 14, 1988 and recorded in the York County Registry of Deeds in Book 4735, Page 153, as amended (the "Declaration") for property located in the Town of Old Orchard Beach, County of York and State of Maine was duly adopted:

A. Voted: to Amend Article X of the Declaration by adding Section 10.6 as follows:

Section 10.6. Smoking in Units and Common Elements.

(a) Prohibition. Smoking shall be prohibited (i) within each Unit, (ii) within the Common Elements of buildings in which the Units are located, including without limitation their lobbies, hallways, decks, balconies, elevators, stairs, and recreational facilities, (iii) within 25 feet of the buildings' perimeter and common entrances, and (iv) if so provided by the Rules and Regulations, such other portions of the Common Elements as may be designated from time to time as areas in which Smoking is prohibited.

No owner or any other person shall Smoke or permit Smoking by any occupant, agent, tenant, guest, friend, invitee, or family member in violation of this Section or the Rules and Regulations.

Provided however that notwithstanding the foregoing, the owner of a Unit and members of the owner's family who share occupancy of a Unit at the time of the adoption of this Section may engage in Smoking within that Unit, so long as no portion of the resulting Smoke travels or passes outside the boundaries of that Unit into the building's Common Elements or another Unit, regardless of quantity or cause. This exemption shall not apply to: (i) any person who purchases or occupies a Unit after the adoption of this Section unless such person had entered into a binding contract to purchase a Unit that was in effect prior to the recording in the Registry of Deeds of the Declaration Amendment adopting this Section; nor shall it apply to (ii) any Smoking in Common Element areas in which Smoking is prohibited by this Section or by the Rules and Regulations; nor to (iii) any Smoking by tenants; nor to (iv) any Smoking by guests or invitees who do not reside in the Unit.

(b) Definition of Smoking. The term "Smoking" shall include carrying, burning, or otherwise handling or controlling any lit or smoldering product containing (i) tobacco, cloves or

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similar products, or containing (ii) Cannabis products (also known as marijuana) or derivatives thereof unless legally prescribed by a health care professional, including but not limited to cigarettes, cigars, pipes and devices which simulate any of the foregoing, sometimes known as electronic nicotine delivery systems or "e-cigarettes. The term "Smoke" shall include all the products and residue of Smoking.

(c) Disposal of Smoking Products. All lighted and/or unlighted Smoking products shall be disposed of properly in the proper waste receptacles. They shall not be thrown from deck, balcony or patio areas. Smoking products shall not be deposited on the Common Elements, including outdoor walkways, parking lots, drives, and lawn areas. Neither lighted nor unlighted tobacco products shall be left unattended in any manner. These provisions shall not be deemed to allow Smoking in any areas in which Smoking is otherwise prohibited.

(d) Rules. The Board may adopt Rules and Regulations in order to (i) add additional areas of the Common Elements subject to the prohibition on Smoking and to (ii) implement or clarify the provisions of this Section.

(e) Enforcement. Any person complaining of a Smoking violation shall provide a written statement of the particulars of the violation to the managing agent designated by the Board. When so advised to a possible violation of these provisions, the Unit owner and if appropriate the tenant or other occupants shall be sent a written notice and advised as to whether a hearing will be held by the Board to consider the violation. If the alleged violator is a tenant or other occupant, a copy of the notice will be sent to the Unit owner. At the hearing if the Board receives testimony that it deems creditable that smoke is emanating from a Unit, then the burden of proving that Smoking did not occur in the Unit shall shift to the Unit Owner and its occupants.

If, at the conclusion of the hearing, the Board determines in its discretion that a material Smoking violation has occurred, the then Board may impose a charge of up to \$50.00 for each single occurrence, in addition to all other rights and remedies of the Association. Upon a second Smoking violation, the charge for each incident constituting a violation shall increase to \$250 per occurrence in addition to all other rights and remedies of the Association including the recovery of its legal expenses. Such charges and expenses and the costs of abating the transmission of Smoke will become the personal liability of the Unit owner and a lien on the Unit, together with interest and costs of collection and enforcement. Any Smoking abatement devices located in the Common Elements shall be subject to the approval of the Board. All such devices shall be installed at the Owner's expense and shall be removed when the Owner vacates the Unit.

The Board may exercise its judgment in deciding whether or not to hold a hearing or to pursue an alleged violation of this Section. If the Board declines to take action, then upon 30 days' written notice to the Board a Unit owner shall then have the option to sue the Unit owner

or occupant alleged to be violating this Section in order to seek specific performance of the provisions of this Section, including the costs of abating the transmission of Smoke but such person shall not be entitled to recover legal expenses or to a lien on the Unit under this Section. Provided however that any decision of or settlement entered into by the Board with respect to Smoking shall be binding on all Owners.

In all other respects said Declaration of Condominium of Whispering Sands, A Condominium is hereby ratified and confirmed.

Witness its hand and seal as of JUNE 25, 2018.

WHISPERING SANDS CONDOMINIUM ASSOCIATION

By: David Chandler Smith
DAVID CHANDLER SMITH, President

By: Marc H. Guimont
Marc H Guimont, Secretary

State of Maine
County of York, ss

Then personally appeared before me the above named DAVID CHANDLER SMITH MARC H. Guimont in his her their said capacity and acknowledged the foregoing to be his her their free act and deed and the free act and deed of said association.

Before me,

Karen M. Walker

Notary Public/Attorney at Law

Name: Karen M Walker

My Commission Expires: 11/27/18

SEAL