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 Fayette, Ga. Clerk Superior Court
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-----[SPACE ABOVE RESERVED FOR RECORDING DATA]-----

Return to: Christy A. Dunkelberger
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Reference: Deed Book 248, page 377 *et seq.*
 Deed Book 539, page 714 *et seq.*
 Deed Book 724, page 365 *et seq.*
 Deed Book 855, page 219 *et seq.*
 Deed Book 1738, page 747 *et seq.*
 Deed Book 1738, page 745 *et seq.*
 Deed Book 1738, page 749 *et seq.*
 Deed Book 2935, page 110 *et seq.*

STATE OF GEORGIA)
)
)
)
 COUNTY OF FAYETTE) AMENDED AND RESTATED DECLARATION
) OF PROTECTIVE COVENANTS AND
) RESTRICTIONS RUNNING WITH THE LAND
) AND RESERVATIONS OF EASEMENTS FOR
) SMOKERISE PLANTATION HOMEOWNERS
) ASSOCIATION, INC.

WHEREAS, SMS Investment Associates, Inc., as Developer, previously declared and recorded certain protective covenants, restrictions and reservations of easements for Smokerise Plantation, as recorded in Deed Book 248, page 377 *et seq.* and in Deed book 539, page 714 *et seq.* in the Office of the Clerk of the Superior Court of Fayette County, Georgia (hereafter referred to as "Covenants"); and

WHEREAS, Smokerise Plantation Homeowners Association, Inc. (hereafter the "Association") was duly incorporated and has assumed the duties assigned it under the Covenants and Bylaws; and

WHEREAS, The Association and sixty percent (60%) of the record Owners of Lots in Smokerise Plantation previously amended the Covenants on April 30, 1992, recorded in Deed Book 724, page 365 *et seq.*, and again on April 30, 1993, recorded in Deed Book 855, page 219 *et seq.*; and again on April 20, 1999, recorded in Deed Book 1738, page 747 *et seq.*; and again on April 20, 2000, recorded in Deed Book 1738, page 745 *et seq.*; and again on April 24, 2001, recorded in Deed Book 1738, page 749 *et seq.*; and again on January 1, 2006, recorded in Deed Book 2935, page 110 *et seq.*; and

WHEREAS, the Association and the record Lot Owners desire to further amend the Covenants for Smokerise Plantation for the purpose of replacing the existing Covenants in their entirety and replacing them as follows:

NOW, THEREFORE, the Covenants and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefore:

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS AND
RESTRICTIONS RUNNING WITH THE LAND AND RESERVATIONS OF EASEMENTS
FOR SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC.

April 25, 2009

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AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS RUNNING WITH THE LAND AND RESERVATIONS OF EASEMENTS FOR SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC.

The submitted property is the property described in this Amended and Restated Declaration of Protective Covenants and Restrictions Running with the Land and Reservations of Easements and all amendments thereto as recorded in the Fayette County, Georgia deed records, hereinafter referred to as the ("Declaration").

ARTICLE I
Definitions

The following words, when used in this Declaration or in any supplementary Declaration (unless the context shall prohibit), shall have the following meanings:

- (a) "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as such Act may be amended from time to time.
- (b) "Architectural Review Committee" or "ARC" shall mean the committee established to exercise the architectural review powers set forth in these Covenants and exhibits hereto.
- (c) "Association" shall mean and refer to the SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC., a nonprofit Georgia corporation, its successors and assigns.
- (d) "Board of Directors", "Director", or "Board" shall mean an executive and administrative body, by whatever name denominated, designated in the instrument as the governing body of the Association.
- (e) "Bylaws" shall refer to the Bylaws of the SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC., attached hereto as Exhibit "A" and made a part hereof by this reference. The words defined in the Bylaws shall have the same meaning in these Covenants, unless the context shall prohibit.
- (f) "Common Property" shall mean any and all real and personal Property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.
- (g) "Community" shall mean Smokerise Plantation.
- (h) "Smokerise Plantation Standards" shall mean the standard of conduct, maintenance, or activity generally prevailing in the Community, but at no time shall any activity

interfere with the quiet enjoyment of the Owners or the Community. Such standard may be more specifically determined by the Board of Directors of the Association.

(i) “Declaration” shall mean the recorded instrument creating covenants upon Property that is administered by a property owners’ association in which membership is mandatory for all Owners of Lots in the property owners’ development.

(j) “Fiscal Year” shall mean January 1 through and including December 31.

(k) “Lot” shall mean a plot or parcel of land, other than a common area, designated for separate ownership and occupancy shown on a recorded subdivision plat for Smokerise Plantation. Where the context indicates or requires, the term Lot includes any structure on the Lot.

(l) “Majority” shall mean those eligible Association members, Lot Owners, Board of Directors or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

(m) “Occupant” shall mean any person occupying all or any portion of the Property for any period of time, regardless of whether such person is a tenant or the Owner of such Property.

(n) “Owner” shall mean one or more persons or entities that are on record as title Owners of a Lot within Smokerise Plantation, but shall not include a mortgage holder.

(o) “Property” shall mean any real property and any interest in real property within Smokerise Plantation including, without limitation, parcels of air space.

(p) “Smokerise Plantation” shall mean all that certain real Property shown on various plats (phases I though VI) entitled “SMOKERISE PLANTATION” and recorded on the Fayette County, Georgia Public Real Estate Records, which plats and the record thereof are by reference incorporated herein and referred to as Exhibit “B”.

ARTICLE II

Property Subject to this Declaration

Section 1. Property Hereby Subject to this Declaration. The real Property known as Smokerise Plantation, which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration.

Section 2. Other Property. Only the real Property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one or more supplementary

Declarations, and the Association has the right, but not the obligation, to subject other real Property to this Declaration, as hereinafter provided.

Section 3. Georgia Property Owners' Association Act. The Community is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as such Act may be amended from time to time.

Section 4. Term. The term of this Declaration for the Protective Covenants and Restrictions Running with the Land and Reservations of Easements for Smokerise Plantation shall continue in full force and effect perpetually to the extent provided and permitted by law.

ARTICLE III **Association Membership and Voting Rights**

Section 1. Required Membership. Any record Owner of a fee or undivided fee interest in any Lot or Property that is subject to this Declaration shall be deemed to have a required membership ("Member") in the Association and be bound by the Covenants and the Bylaws established by the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in the Covenants and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote on all issues and votes coming before the Association and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

Section 2. Voting. Members in good standing, meaning those Members without delinquent dues or assessments and having no violations of any Covenant, Bylaw or rule, shall be entitled to one (1) vote for each assessable Lot owned. When more than one person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one person seeks to exercise it.

Section 3. Transfer, Sale, Lease or Change of Legal Residence. When an Owner either sells, leases or transfers title to a Lot or Property within the Community, said Owner is hereby required to furnish to the Board President or the Board Treasurer, the full names of the new Owner, lessee or Occupant within five (5) business days of the sale or transfer of same. If an Owner changes his or her legal residence to an address located outside Smokerise Plantation, said Owner is hereby required to furnish to the Board the new legal residence address for Owner within five (5) business days of the change of address. It is further stipulated that all addresses furnished to the Board shall be street addresses and that P.O. Box and A.P.O. addresses are not allowed nor recognized as a legal residence address.

ARTICLE IV
Assessments and Dues

Section 1. Purpose of Assessments. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots as may be authorized by the Board.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (i) annual dues or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) special assessments against any particular Lot which are established pursuant to Section 5 hereunder, including, but not limited to, reasonable late fees imposed in accordance with the terms of the Act and hereof.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Property owned by the Association and reserved for the use and enjoyment of the Association, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act.

Section 3. Annual Dues. Owners shall receive an invoice for annual dues in the amount established by the Board of Directors. Annual dues shall not be increased more than ten percent (10%) by the Board of Directors without approval by a majority vote of the membership. The invoice shall include a due date for payment in full to be received by the Association. Failure to pay the annual dues in full within thirty (30) days of the due date shall result in a late charge of ten percent (10%) of the amount due plus interest at the rate of ten percent (10%) per annum, or such higher rate as may be permitted by the Act, which shall accrue from the date the assessment was first due and payable.

Section 4. Delinquent Payments. All assessments, annual dues and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If partial payment of assessments and related charges is made, the amount received shall be applied first to the costs of collection, including court costs, reasonable attorney's fees actually incurred, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

(b) If any assessment, dues or other charges or any part thereof remain unpaid more than thirty (30) days after its due date, all sums due, together with late charges, if any, interest, costs and attorney's fees shall be secured by a lien on such Lot or Property in favor of the Association. Such lien shall be superior to all other liens or encumbrances on such Lot or Property, except for (a) liens for ad valorem taxes; (b) liens for sums paid on a first Mortgage; or (c) liens for all sums on any Mortgages duly recorded in the land records of Fayette County.

(c) The personal obligation of the lot owner and the lien for assessments shall also include: a late or delinquency charge not in excess of the greater of \$10.00 or 10 percent of the amount of each assessment or installment thereof not paid when due; at a rate not in excess of 10 percent per annum, interest on each assessment or installment thereof and any delinquency or late charge pertaining thereto from the date the same was first due and payable; and the cost of collection, including court cost, the expenses require for the protection and preservation of the lot, and reasonable attorney's fees actually incurred.

(d) If any assessment and other charges or any part thereof remain unpaid more than thirty (30) days after its due date, the Association, acting through the Board, may institute a lawsuit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law and suspend the Owner's right to vote.

Section 5. Statement of Account. Any Owner, mortgagee, or a person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

ARTICLE V **Maintenance**

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect of all landscaping and improvements situated on the Common Property.

The Association shall have the right, but not the obligation, to maintain Property not owned by the Association including, without limitation, any green belt areas located adjacent to the Community, where the Board has determined that such maintenance would benefit all Owners.

The foregoing maintenance shall be performed consistent with the Smokerise Plantation Standards.

Section 2. Owner's Responsibility. Except as provided in Section I above, all maintenance of the Property including, without limitation, all structures and parking areas, shall be the responsibility of the Owner. Such maintenance shall be performed consistent with this Declaration and the Smokerise Plantation Standards established pursuant hereto.

In the event that the Board of Directors of the Association determines that (a) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then, the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

ARTICLE VI **Use Restrictions and Rules**

Section 1. Residential Use. Each Lot shall be used solely as a single-family residence. The maximum number of Occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling. No trade or business of any kind may be conducted in or from a Lot or any part of the Community, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in the residence on a Lot may conduct such ancillary business activities within the residence so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the residence; (b) the business activity does not involve persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community; (c) the business activity conforms to all zoning requirements for the Community; and (d) the business activity is

consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive condition, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board of Directors and (e) the business is incidental to the Lot Owner's practice or profession elsewhere.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an on-going basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, the leasing of a Lot or the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this Section.

Section 2. Parking and Garages. The term "vehicles," as used in this provision, shall include without limitation, motor homes, boats, jet-skis, trailers, motorcycles, minibikes, golf carts, scooters, go-carts, trucks, campers, buses, vans, and automobiles. No Owner or Occupant shall park his or her vehicle on any portion of the Community, other than in the garage or driveway unless the maximum number of vehicles which can be parked in the garage according to its design capacity are already parked in said garage. Any recreational type vehicle must be in a garage at all times or in the rear of the main structure. Suitable screening shall be provided (i.e. fencing or shrubbery to obscure visibility from the public rights-of-way or any adjacent Lot.) Any stored vehicles must be in a garage at all times. No Owner or Occupant may store any vehicle in the driveway or anywhere else on the Property. For purposes of this paragraph, a stored vehicle is defined as one that has not been upon the public roads for a distance of at least two (2) miles in the past seven (7) consecutive days.

All garages shall be maintained in such a manner that parking for the maximum number of automobiles, cars, or other motor vehicles for which it was originally designed to hold is allowed and possible. Garages may be attached or detached from the residence and may not have entrances facing the street from which the front of the home faces. In any event, the decision of garage placement and facing by the ARC shall be final. Each residence shall have at least a two (2) vehicle garage of not less than four hundred (400) square feet. In the event of a detached garage the building must be of identical materials, colors and architecture as the primary residence.

All commercial vehicles, tractors, mobile homes, trailers (either with or without wheels), campers, camper trailers, boats and other water craft, boat trailers, motorcycles, minibikes, and scooters must be parked within a garage unless otherwise permitted by the Board. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed.

Section 3. Leasing. Leasing is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner. For purposes hereof, occupancy by a roommate of an

Owner who occupies the Lot as such Owner's primary residence shall not constitute leasing hereunder. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly stated therein, and each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee agrees to abide and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. Owner agrees to cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and is responsible for all violations and losses caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to do so. Any lessee charged with violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

(2) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property.

(3) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all Annual Dues and special assessments and all other charges against the Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Section 4. Roadway Safety. Owners shall not permit vehicles to park on streets so as to interfere or block traffic flow within the subdivision. Owners shall ensure vendors and contractors providing services to their property shall not park on the street so as to block or interfere with traffic flow.

Section 5. Animals and Pets. No animals, other than a reasonable number of generally recognized house pets, shall be maintained on the Property and then only if kept thereon solely as household pets and for no other purposes. Such animals shall be kept within the residence or within the yard, except when under physical control. No doghouse or pen shall be constructed anywhere on the Property without the approval of the ARC.

Section 6. Unsightly or Unkempt Conditions and Nuisances. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his or her Lot. No Lot shall be used, in whole or in part, for the storage of any Property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any Property adjacent to the Lot. All landscaping material including, but not limited to, trees, plants, dirt, mulch, pine straw, rocks, etc., shall be screened or concealed from view of neighboring Lots, Common Property and any public roadway or the street on which the named material is located. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the major assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community. The interpretation and enforcement of this Section shall be the responsibility of the ARC.

Section 7. Property Maintenance. The Lots within Smokerise Plantation will be maintained in a manner that is in the opinion of the ARC, pleasant in appearance when compared to the Majority of the houses in the Community. The driveways, walkways and roofs shall be kept clean and in good repair or condition. The lawns of Lots shall be kept mowed year-round. No unsightly growth shall be permitted to grow or remain upon any part of the Property and no refuse pile or unsightly object shall be allowed to be placed or remain anywhere on the Property.

Section 8. Architectural Standards. The Association has established the Architectural Review Committee to exercise the architectural review powers set forth herein and Exhibits hereto. The intended purpose of the ARC is to ensure that all residences, other buildings and landscaping constructed, erected, placed, or installed in the Community shall be substantially the same in terms of quality, workmanship, materials, and appearance. All Owners of Smokerise Plantation are required to comply with the architectural standards herein and the decisions made by the ARC. Submission of architectural plans, material samples, or any pertinent information that may be required as part of this Declaration shall be made by personal delivery to any member of the ARC or by mailing the same by United States Mail to the Architectural Review Committee at the following address:

PRESIDENT, SMOKERISE PLANTATION HOMEOWNERS' ASSOCIATION, INC.,
ADDRESS ON FILE WITH SECRETARY OF STATE, STATE OF GEORGIA.

No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of any Lot or Property unless and until the plans, designs and specifications showing the nature, kind, shape, height, materials, and location shall have

been submitted in writing to and approved by the ARC. The ARC may promulgate written guidelines for the exercise of this review. The ARC shall be the sole arbitrator of such plans and may withhold approval for failure to comply with any requirement of this section or the construction in general. The ARC shall also be entitled to stop any construction in violation of these restrictions.

In the event the ARC fails to approve or to disapprove in writing such plans, designs, specifications and locations within sixty (60) days of submission, the foregoing shall be deemed approved. However, any and all activity commenced pursuant to such plans, designs and specifications shall be consistent with such plans, designs and specifications. Peachtree City Code Enforcement shall be notified in writing of all ARC decisions. Any disapproved plans or requests will be done so in writing with full explanation to the owner.

The following, non-inclusive list of standards, applies to the construction on and ongoing maintenance of any Lot or Property within Smokerise Plantation:

(a) Square Footage. The area of the main structure, exclusive of garage, decks, covered walks, porches and finished or unfinished basement areas, shall have a minimum area of:

- Three thousand (3,000) square feet for a one (1) level residence
- Three thousand two hundred (3,200) square feet for a split-level residence and
- Three thousand four hundred (3,400) square feet for a two (2) story residence.

(b) Exposed Materials. It shall be the responsibility of each Owner to ensure that no structure shall be constructed so as to leave any masonry blocks or walls exposed to view.

(c) Chimneys. All chimneys shall be faced with brick, siding, shingles, stone or stucco except where such chimney is not visible from public rights-of-way or any adjacent Lot.

(d) Additions to Property. No addition to a house shall be made unless the exterior material is the same, similar or compliments the original structure and is approved by the ARC.

(e) Commencement and Completion of Construction. The exterior of all structures must be completed within two (2) years after the construction of same has commenced as represented by the date of issue of the building permit, except where such failure to complete is caused by strikes, fire, national emergency, act of God or other causes beyond the control of the Owner. All construction shall be of quality workmanship and material utilized substantially the same or better than those generally existing in Smokerise Plantation and subject to the approval of the ARC. Any lack of compliance with this subparagraph shall empower the Association to impose and assess fines and suspend temporarily voting rights and the right of use of certain of the common areas and services paid for as a common expense in order to enforce such compliance.

(f) Driveways. All driveways shall be a minimum of ten (10) feet in width and have a surface treatment of concrete, asphalt, blacktop or other material authorized by the ARC.

(g) Front Yard Groundcover. All Lots shall have a minimum of five thousand (5000) square feet of sod or other approved landscape plan in the front yard. Said sod shall be installed before a final city inspection and certificate of occupancy is issued.

(h) Mailboxes and outdoor fixtures. All mailboxes serving any Lot shall be approved by the ARC. This Section also governs, but is not limited to, driveway entrance pillars, statues, fountains, waterfalls, ponds, exterior sculptures, flags, artificial vegetation, all which are also subject to inspection and approval by the ARC.

(i) Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without the prior written approval of the ARC and in no event shall any aboveground pool be permitted on any Lot.

(j) Utility Lines. Except as may be permitted by the ARC, no overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as may be required during construction.

(k) Tree Removal. At all times, tree removal shall be in compliance with any and all local ordinances and laws. Additionally, no trees that are more than six (6) inches in diameter at a point twelve (12) inches above the ground shall be removed without the prior written consent of the ARC. The ARC shall have the sole approval regarding live, healthy tree removals for new construction except within the foundation lines of the approved house.

(l) Elevations of the Land. No changes in the contours or elevations of any Lot shall be made without the approval of the ARC.

(m) Fences/Gates/Walls. No fence, gate or wall of any kind shall be erected, begun, or permitted to remain upon any portion of a Lot unless and until plans are submitted to and approved by the ARC. Fencing between any street and the setback lines shall be a maximum height of four (4) feet. Materials shall be of wood, wrought iron, brick, stone, or other synthetic materials approved by the ARC. With regard to synthetics, the ARC may request an example of at least one (1) panel, including at least one (1) post, all rails and pickets that would constitute one (1) panel. The decision to accept or reject any synthetic material shall be final and shall constitute a rejection of that product by that manufacturer for use anywhere in the Community. Chain-link fences, except when used for tennis courts, are not permissible. Fencing, gates or walls behind the setback line shall be a maximum of six (6) feet with the exception of swimming pool and tennis court fences. Materials for tennis court fences may be a chain-link and painted a color approved by the ARC. Regulation windbreaks are permitted in conjunction with tennis courts. The location of swimming pools and tennis court fences shall be subject to approval by the ARC.

(n) Antennas, Satellite Dishes, TV Microwave, Solar Panels, etc. All exterior antennas, including but not limited to, television antennas, citizen band radio antennas, cellular telephone antennas, and TV microwave antennas are prohibited everywhere in the Community. Satellite dishes measuring no more than eighteen (18) inches in diameter may be installed in the

Community. No solar panels or energy conservation equipment or attendant hardware shall be constructed or installed on any Lot or Property without prior written approval of the ARC.

(o) Holiday Decorations. Any and all outside holiday decorations visible to the Community must be limited to public display for a reasonable period of time before and after the respective holiday. Christmas decorations may be displayed from November through January of the subsequent calendar year. Except as otherwise specified herein, the ARC shall be the sole arbitrator to determine the reasonable period of time for holiday decorations. The ARC shall also be the sole arbitrator to assess purely aesthetic considerations for any and all holiday decorations and shall be entitled to stop and/or remove any violations of these restrictions.

(p) Signs. No sign of any character shall be displayed or placed upon any part of the Property, except for the following: One (1) "For Sale" sign which shall be well designed and well constructed and not to exceed four (4) square feet in size and referring only to the premises on which displayed. SIGNS SUPPORTING AN ISSUE OR CANDIDATE FOR ELECTION ARE PERMITTED IN ACCORDANCE WITH THE PEACHTREE CITY MUNICIPAL CODE AND ALL STATE AND LOCAL LAWS. ALARM COMPANY INFORMATION SIGNS ARE PERMITTED PROVIDED THEY DO NOT EXCEED FORTY (40) SQUARE INCHES. SIGNS ANNOUNCING ASSOCIATION MEETINGS MAY BE PLACED.

Section 9. Clotheslines, Garbage Cans, Woodpiles, Dirt, Mulch, Etc. All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened or concealed from view of neighboring Lots, Property, and Common Property and the street on which the named item is located. All debris, rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. All landscaping material, including but not limited to, dirt, mulch, pine straw, rock, etc., shall be screened or concealed from view of neighboring Lots, Common Property, and the street on which the named material is located. In the event an Owner receives a delivery of any landscaping materials (i.e. dirt, mulch, pine straw, rock, etc.) and is unable to conceal the materials, said materials shall be dispersed, removed or concealed in accordance with the architectural standards and this Section herein within fifteen (15) days from the date Owner receives the materials.

Section 10. Subdivision of Lot and Outbuildings. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. No structure of a temporary character, trailer, shack, carport, garage barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently, except with written ARC approval. Temporary children's play structures are excluded from this Section.

Section 11. Setback. No building shall be erected upon any Lot in Smokerise Plantation that extends beyond the minimum setback lines as shown on said Plat and as prescribed by the zoning and building ordinance of the County of Fayette, Georgia.

Section 12. Local Ordinances. Notwithstanding the provisions herein, all use of Property within the Community is subject to and will be in compliance with the ordinances of

Peachtree City, Georgia, and all other governmental entities having jurisdiction over the Community. Any decisions or opinions of the Board and the ARC shall be in compliance with such ordinances.

ARTICLE VII
Insurance and Casualty Losses

Section 1. Insurance for Common Property. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief and shall be in an amount sufficient to cover the replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee, for the respective benefited parties, as further identified in subparagraph (b), below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Georgia and holding a rating of A+ or better in the Financial Category as established by A.M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be

reviewed annually by one of more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Fayette County, Georgia, area.

(e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its Manager, any Owner or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary, to satisfy the requirements of applicable laws and a fidelity bond or coverage for dishonest acts on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

Section 2. Contractors for Association Services. Any vendor and/or contractor hired to provide services to the Association shall carry general liability insurance coverage in an amount of not less than One million dollars (\$1,000,000.00) per occurrence and worker's compensation insurance as required according to State law.

Section 3. Damage and Destruction - Association Property.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition and location that existed prior to the fire or other casualty.

(b) Repair and Reconstruction. Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, Members holding at least two thirds (2/3) of the total Association vote who are voting in person or by proxy shall otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, by a vote of at least 2/3 of the owners a special assessment will be levied against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and only in that event, the Property shall be restored to its natural state and maintained as an undeveloped portion of the Common Property by the Association in a neat and attractive condition.

Section 4. Damage and Destruction - Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on the Property shall be repaired by the Owner within seventy-five (75) days after the damage or destruction. However, where repairs cannot be completed within seventy-five (75) days, they shall begin within the required period and shall be diligently and continuously pursued until their completion. Alternatively, the Owner may decide to destroy and remove all improvements on the Property

within seventy-five (75) days after such damage or destruction. The ARC shall consider any special circumstances that prevent completion or repair as required under this section.

ARTICLE VIII **Condemnation**

If any condemnation or taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, Members holding at least two thirds (2/3) of the total Association voting in person or by proxy, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefore. The provisions of Article VII, Section 4, above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE IX **Annexation of Additional Property**

Annexation With Approval of Membership. Subject to the consent of the Owner thereof, upon the affirmative vote or consent of Members holding two-thirds (2/3) of the total Association vote, the Association may annex other real Property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Clerk of the Superior Court of Fayette County, Georgia, a supplementary Declaration in respect to the Property being annexed. Any such supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such supplementary Declaration, unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Members of the Association called for the purpose of determining whether additional Property shall be annexed, and the quorum required for the transaction of business at any such meeting, is specified in the Bylaws of the Association.

ARTICLE X **Mortgagee's Rights**

Section 1. Unless at least two-thirds (2/3) of the first mortgagees or Lot Owners give their consent, the Association may not:

- (a) by act or omission seek to abandon or terminate the Board of Directors or the Association;
- (b) change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (c) partition or subdivide any Lot;

(d) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility easements or rights-of-way for public purposes and the granting of other easements for the benefit of the Association shall not be deemed a transfer within the meaning of this clause); or

(e) use hazard insurance proceeds for losses to any portion of the Property (whether to Lots or to Common Property) for other than the repair, replacement, or reconstruction of such portion of the Property.

The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from mortgages or Lot Owners where a larger percentage vote is otherwise required by the Association legal instruments for any of the actions contained in this Article.

Section 2. Where the mortgagee holding a first mortgage of record or other purchases of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the mortgage, efforts shall continue against the Owner to collect unpaid dues or assessments to the extent permitted by law. Additionally, such acquirer shall be responsible for all charges accruing subsequently to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 3. Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any eligible mortgage holder will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a first mortgage held by such eligible mortgage holder;

(b) any delinquency in the payment of assessments or charges owned by an Owner of a Lot subject to a first mortgage held by such eligible mortgage holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under the Association legal instruments which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible mortgage holders, as specified herein.

Section 4. Any holder of a first mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the mortgagee so requesting.

Section 5. Notwithstanding anything to the contrary herein contained, the provisions and Articles governing sales and leases shall not apply to impair the right of any first mortgagee to (i)

foreclose or take title to a Lot pursuant to remedies contained in its mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the mortgagee.

ARTICLE XI **Easements**

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot or Property shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property that shall be appurtenant to and shall pass with the title to his Lot or Property, subject to the following provisions:

(ii) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds (2/3) of the total Association.

(b) Any Lot or Property Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his family, his tenants and guests and shall be deemed to have made a delegation all such rights to the Occupants of any leased Lot or Property.

ARTICLE XII **General Provisions**

Section 1. Enforcement. Each Owner and every Occupant of the Property shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to his or her Property, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of dues and assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or

injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community perpetually to the extent provided in the Act.

Section 3. Amendment. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Members holding at least two-third (2/3) of the total Association vote who are voting in person or by proxy. Amendments to this Declaration shall become effective upon recordation in the Fayette County Georgia Records, unless a later effective date is specified therein.

Section 4. Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the Property located within the Community and without the written consent of all holders of all mortgages encumbering any portion of the Property, including, but not necessarily limited to, the Property or Lots located within the Community.

Section 5. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any Property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 7. Captions. The caption of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. Indemnification. In accordance with the Georgia Nonprofit Corporation Code, and to the full extent allowed by Georgia law, the Association shall indemnify every person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reasons of the fact that such person is or was serving as a Director or officer of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such person acted in a manner reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe this conduct was unlawful. Any indemnification shall be made by

the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

Section 9. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of the rules and use restriction, membership register, books of account, and minutes of meetings of the Members of the Board and of committees shall be made available for inspection and copying by any Member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any first mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a Member or holder, insurer, or guarantor of a first mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

- (b) Rules for Inspection. The Board shall establish reasonable rules with respect to:
- (i) notice to be given to the custodian of the records;
 - (ii) hours and days of the week when such an inspection may be made; and
 - (iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 10. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's reviewed financial statement, the Majority vote of the Board may request an audit as a common expense by a certified public accountant. Upon written request of any institutional holder of a first mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of an audited financial statement within ninety (90) days of the date of the request.

Section 11. Variances. Notwithstanding anything to the contrary contained in this Declaration, the Board of Directors or ARC or any Board or ARC designee shall not grant individual variances from any local ordinances, or the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto.

Section 12. Security. The Association may but shall not be required to, provide measures or take actions that directly or indirectly improve safety on the Community. However, each Owner, for themselves and their tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security for the Community. It shall be the responsibility of each Owner to protect his or her person and Property, and all responsibility to provide security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

IN WITNESS WHEREOF, the undersigned officers of SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC. hereby certify that this Amended and Restated Declaration of Protective Covenants and Restrictions Running With The Land and Reservations of Easements for SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC. was duly adopted by the required vote of the Association membership and any required notices were duly given.

This 16th day of June, 2009.

Witness:

Erinay Alexander

Erinay Alexander

SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC.

By: James L. Preau
James L. Preau, President

By: Jon H. Montague
Jon H. Montague, Secretary

Sworn to and subscribed before me
this 16th day of June, 2009.

Christy A. Dunkelberger
Notary Public, State of Georgia
My Commission expires: 1/15/2012



EXHIBIT "A"

BYLAWS

of

SMOKERISE PLANTATION HOMEOWNER'S ASSOCIATION, INC.

BYLAWS OF ASSOCIATION
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BYLAWS

ARTICLE I

Name, Membership, Applicability, and Definitions

Section 1. Name. The name of the Association shall be the SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC., (hereinafter sometimes referred to as the "Association").

Section 2. Membership. The Association shall have one class of membership, (hereinafter sometimes referred to as "Members") as set forth in that Declaration of Protective Covenants and Restrictions for SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC., (this Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to the membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

ARTICLE II

Association: Meeting, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at a suitable place convenient to the Members as may be designated by the Board of Directors, either in the Community or as convenient thereto.

Section 2. Annual Meetings. Annual meetings shall be set by the Board so as to occur no later than one hundred twenty (120) days after the close of the Association's Fiscal Year.

Section 3. Special Meetings. The President of the Association may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a Majority of the Board of Directors or upon a petition signed by Members holding at least two-thirds (2/3) of the total Association vote. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. The President or Secretary of the Association shall notify Owners in writing of each annual at least twenty-one (21) days prior to each annual meeting. The notice of an annual meeting shall state the time and place of the meeting. The President or Secretary of the Association shall notify Owners in writing of each special meeting at least seven (7) days prior to each special meeting. The notice shall state the purpose of the special meeting along with the time and location of the meeting. All notices will be sent by way of U.S. Mail. If any Owner wishes notice to be given at an address not within Smokerise

Plantation, the Owner must have designated in writing to the Secretary such other address. All notices referenced in this Section 4 shall be given in writing and mailed to each Owner

Section 5. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed waiver by such Member of the notice of time, date, and place thereof, unless such Member specifically objects to a lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a Majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than seven (7) days and no more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 7. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights are specifically incorporated herein. A Member must be in good standing with the Association in order to vote on any issues of the Association.

Section 8. Proxies. At all meetings of Members, each Member may cast his or her vote in person, by written ballot or by proxy. All proxies shall be in writing and signed by the Member entitled to vote. Where a Lot is owned jointly by more than one person, and if they have not designated one of them as the voting Member, a proxy must be signed by all Owners where a third person is designated. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Property, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. A quorum shall be deemed present throughout any meeting of the Members of the Association when persons entitled to cast thirty percent (30%) of the votes are present in person or by proxy at the beginning of the meeting.

ARTICLE III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members, provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Number of Directors. At all times the Board of Directors shall consist of seven (7) Members. Every Member of the Board is expected to attend all meetings of the Association and all meetings of the Board unless excused by the Board President prior to any such meeting.

Section 3. Board of Directors Candidate Submission. Members of the Association who desire to serve on the Board of Directors shall complete the Smokerise Plantation Homeowners' Association Board of Directors Candidate Submission form, a copy of which is hereto attached as Exhibit "A" and by reference made a part hereof. This form is to be mailed to the Board President at least thirty (30) days prior to the annual meeting in order to allow time for the candidate's name to be placed on the ballot. The names of eligible candidates shall be placed on a ballot for election.

Section 4. Election of Board of Directors. The Board of Directors shall be elected by ballot by the Members in good standing of the Association. All eligible Members of the Association may vote for their choice of Directors to be elected, and the candidate(s) receiving the most votes shall be elected.

Section 5. Election and Term of Office. The term of office shall begin immediately following the counting of the votes and communication of the results to the Members of the Association during the annual meeting in which the election occurs. A Board member shall be elected for a two (2) year term of office. Four (4) Directors shall be elected on odd years and three (3) Directors shall be elected on even years. Every year Directors shall be elected to succeed those Directors whose terms are expiring.

Section 6. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the Members of the Board of Directors may be removed, with or without cause, by Members holding at least a Majority vote of the total Association vote and a successor may then and there be elected to fill the vacancy thus created. A Director whose removal has been proposed by the Owners shall be given at least ten (10) days notice of the call of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any Director shall be immediately removed from office who: (a) has two (2) consecutive unexcused absences from Board meetings; (b) is delinquent in the payment of dues or assessments for more than thirty (30) days or; (c) by agreement during executive session of four (4) or more Board Members, where it is determined that the Director has violated the terms of Article III, Paragraph B, Section 11 of the Bylaws herein.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a Director by vote of the Association, shall be filled by a vote of the Majority of the remaining Directors, even though less than a quorum may be present, at any meeting of the Board of Directors. Each Member so selected by the Board shall serve the unexpired portion of the term vacated by the previous Director.

B. Meetings.

Section 1. Organization Meetings. The first meeting of the Board of Directors shall be the organizational meeting of the Board and shall follow each annual meeting of the membership within fourteen (14) days thereafter, at such time and place as shall be fixed by the Board.

Section 2. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a Majority of the Directors or by the Board President. At least four (4) such meetings shall be held during each Fiscal Year with at least one (1) meeting per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's home or office who would reasonably be expected to communicate such notice promptly to the Director; or (d) by email. All such notices shall be given or sent to the Director's physical address, email address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or email shall be given at least forty-eight (48) hours before the time set for the meeting.

Section 4. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if: (a) a quorum is present, and (b) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 5. Quorum of Board of Directors. At all meetings of the Board of Directors, a Majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a Majority of the Directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time that the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 6. Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by Members holding a Majority of the total Association vote.

Section 7. Open Meetings. All meetings of the Board shall be open to Members, but Members other than Directors may not participate in any discussion or deliberation, or address the Board unless expressly so authorized by the Board.

Section 8. Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 9. Action Without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the Directors or documented in the minutes.

Section 10. Telephonic Participation. One or more Directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those Directors participating by telephone shall be deemed to be present at such meeting for quorum and other purposes. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

Section 11. Ethics and Morals. All members of the Board shall at all times conduct themselves in an ethical, legal, and professional manner. Members of the Board shall recuse themselves from any and all activity or decisions that may create a conflict of interest and/or result in personal gain. In the event that an Association Member or Board Member presents an ethical or moral grievance against a Board Member, the Association may remove the Board Member as set forth in Article III, Paragraph A, Section 6 of the Bylaws herein.

C. Powers and Duties.

Section 1. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, and may do all acts which are not directed by the Declaration, Articles, or these Bylaws to be done and exercised exclusively by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses;

(b) providing for the operation, care, upkeep, and maintenance of all areas which are the Association's responsibility;

(c) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(d) collecting the Annual Dues and assessments, depositing the proceeds thereof in a bank depository, which it shall approve, and using the proceeds to administer the Association;

(e) opening of bank accounts on behalf of the Association and designating the signatories required;

(f) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bring any proceedings, which may be instituted on behalf of or against the Owners concerning the Association;

(g) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(h) paying the cost of all services rendered to the Association or its Members, which are not directly chargeable to the Owners;

(i) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and

(j) contracting with any person for the performance of various duties and functions. The Board shall have the power to enter into service agreements or community groups or other homeowner's associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 2. Fining Procedure. The Board shall not impose a fine against an Owner for violating or failing to comply with the Declaration, Bylaws or any rule or regulation (a late charge shall not constitute a fine) unless and until the following procedure is followed:

- (a) Notice. Written notice shall be served upon the violator specifying:
 - (i) the nature of the violation and the fine imposed;
 - (ii) that the violator may, within ten (10) days of the date of the notice, request a hearing regarding the fine imposed;
 - (iii) the name, address and telephone number of a person to contact to challenge the fine;

- (iv) that any statements, evidence, and witnesses may be produced by the violator at the hearing;
- (v) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(b) Any fine imposed by the Board under this Section shall be limited to and shall not exceed an amount greater than ten dollars (\$10.00) per day for each day the violation or non-compliance exists.

(b) Hearing. If a hearing is requested, it shall be held before the Board in executive session, and the alleged violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

ARTICLE IV **Officers**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Only one office may be held at a time by any Member of the Board. The officers shall be elected from among the Members of the Board of Directors.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected by the Board of Directors at the organizational meeting of the Board of Directors to be held within fourteen (14) days of each annual meeting of the membership. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

Section 5. Vice President. The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law. The Secretary shall maintain annual current corporate registration with the Georgia Secretary of State.

Section 7. Treasurer. The Treasurer shall have the responsibility to oversee the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for ensuring that the tax returns and all required financial statements are prepared by a certified public accountant, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall also have authority to reimburse properly documented expenses to Members of the Association only when submitted according to the Association's Expense Voucher and Reimbursement Request form, a copy of which is hereto attached as Exhibit "B" and by reference made a part hereof. The Treasurer is authorized and encouraged to set up automatic payment for any Association recurrent monthly charges. In addition to the above-stated responsibilities, the Treasurer shall be responsible for complying with, and carrying out the following guidelines related to Association finances:

1. ensuring that Association invoices for yearly dues are mailed to all Owners at least two (2) weeks prior to the due date of January 31st;
2. receiving, accepting and documenting or recording all dues and assessment payments from owners;
3. receiving, reviewing and paying invoices from vendors who have been approved by the Board to provide services and have provided services adequately to the Association;
4. receiving, reviewing, and paying for all expense vouchers submitted by Board Members, Members or others on an approved Reimbursement form (see attached Attachment B hereto);
5. maintaining and keeping full and accurate financial records for any and all financial accounts of the Association;
6. within then (10) days of the close of each quarter, providing a full disclosure to the Board of the financial status of the Association, including, but not limited to, providing copies of each and every bank statement of the Association for the preceding quarter, providing access to each and every checkbook of the Association and access to any software program containing Association financial data (i.e. QuickBooks); all disclosures made under this paragraph 6 shall be given by way of a written report with the required documents attached for inclusion into the minutes of the Board;
7. providing the Board Members with access by way of online connection to the Association bank accounts on an ongoing basis.
8. obtaining a co-signature of the Association President for any check written in an amount greater than two hundred fifty dollars (\$250.00);
9. delivering the books and financial data to a certified public accountant selected by the Board for an annual review and tax return preparation and provide a report of same to the Owners at the Association Annual meeting.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the President or the Secretary. Such resignation shall take effect on the date of the receipt of

such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE V
Committees

Section 1. General. Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Architectural Review Committee. There has been created and presently exists a committee known as the “Architectural Review Committee” also herein referred to as “ARC.”

ARTICLE VI
Miscellaneous

Section 1. Parliamentary Rules. Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these Bylaws, or ruling made by the Member presiding over the proceeding.

Section 2. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declarations, and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

These Bylaws may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Members holding at least two-thirds (2/3) of the total Association vote. Amendments to these Bylaws shall become effective upon recordation, unless a later effective date is specified in the amendment.

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IN WITNESS WHEREOF, the undersigned officers of SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC. hereby certify that these Amendments to the Bylaws were duly adopted by the required vote of the Association membership and any required notices were duly given.

This 16th day of June, 2009.

SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC.

Witness:

Sandy Alexander

By: James L. Preau
James L. Preau, President

Sandy Alexander

By: Jon H. Montague
Jon H. Montague, Secretary

Sworn to and subscribed before me
this 16th day of June, 2009.

Christy A. Dunkelberger
Notary Public, State of Georgia
My Commission expires: 1/15/2012



Attachment "A"

SMOKERISE PLANTATION HOMEOWNERS' ASSOCIATION
Board of Directors Candidate Submission

I, _____ desire to submit
Printed First and Last Name
myself as a candidate for election to the Smokerise Plantation Homeowners' Association
Board of Directors. I attest that I am a current Member of the Association in good-standing.

My current address is _____
_____.

As a Member of the Board of Directors, I understand I am expected to attend all
Association and Board meetings as governed by the Bylaw of the Association. I am willing and
able to accept additional responsibilities and commitments of time as deemed necessary by the
Officers, Board or the Association.

SIGNATURE: _____

PRINTED NAME: _____

DATE SIGNED: _____

CONTACT INFORMATION: (Indicate your preferred method for communication below.)

Please use my _____ as my primary contact for these matters.

PHONE RESIDENCE: _____

PHONE BUSINESS: _____

PHONE MOBILE: _____

EMAIL ADDRESS: _____

Return to:
Smokerise Plantation Homeowners' Association, Inc.
1029 Peachtree Parkway, North #224
Peachtree City, GA 30269

Attachment "B"

SMOKERISE PLANTATION HOMEOWNERS' ASSOCIATION
Expense Voucher and Reimbursement Request

Instructions for reimbursement:

- 1. Use the Association's Reimbursement Form for all reimbursement claims.**
- 2. Complete all information requested on the form.**
- 3. Attach original receipts or legible copies of receipts for all amounts claimed.**
- 4. Sign and date the form below.**
- 5. Submit the claim for reimbursement no later than 30 days from the date incurred.**

Member Name: _____

Member's Residential Address: _____

Telephone Contact: _____

<u>Date Expense Incurred</u>	<u>Description of Expense</u>	<u>Amount</u>
------------------------------	-------------------------------	---------------

Total amount of reimbursement: \$ _____

I certify that the original receipt(s) or legible copies are attached and that all expenses submitted are for matters related to Smokerise Plantation Homeowners' Association.

Signature: _____ Date Signed: _____

For Smokerise Plantation Association Treasurer Only:

Date Paid: _____ Check # _____ Amount Paid: \$ _____

EXHIBIT "B"
PROPERTY DESCRIPTION
of
SMOKERISE PLANTATION