

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this 20th day of June, 1980, by ARVIDA OF GEORGIA, INC., a Georgia corporation (hereinafter referred to as 'Declarant').

WITNESSETH:

WHEREAS, Declarant Is the owner of certain real property in Cobb County, Georgia, which is more particularly described in Exhibit A attached hereto and made part hereof;

WHEREAS, Declarant intends to develop on lands including the real property described above a development to be known as Chimney Lakes (hereinafter referred to as the 'Development'); and

WHEREAS, Declarant has caused the Association (as hereinafter defined) to be formed as a non-profit, civic organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined);

NOW, THEREFORE, the Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to this Declaration of Covenants, Restrictions and Easements, which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. The Covenants, Restrictions and Easements set forth herein shall run with the Property (as hereinafter defined), and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns and to the benefit of the Association.

ARTICLE I DEFINITIONS

The following words, when used in this Declaration of Covenants, Restrictions and Easements, shall have the following meanings:

1.01 Association. "Association" means Chimney Lakes Homeowners, Association, Inc. (a non-profit, corporation organized under the Georgia Nonprofit Corporation Code), its successors and assigns.

1.02 Board. "Board" means the Board of Directors of the Association.

1.03 By-Laws. "By-Laws" means the By-Laws of the Association.

1.04 Common Property. "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) owned by the Association for the common use and enjoyment of the Owners.

1.05 Declarant. "Declarant" means Arvida of Georgia, Inc., its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

1.06 Lot. "Lot" means any parcel of land shown upon a subdivision plat recorded in the Office of the Clerk of the Superior Court of Cobb County, covering any portion of the Property, provided, however, that no portion of the Common Property shall ever be a Lot.

1.07 Member. "Member" means any member of the Association.

1.08 Membership. "Membership" means the collective total of all Members of all classes of the Association.

1.09 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot, provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid to full shall be considered the Owner.

1.10 Property. "Property" means that certain real property (other than Common Property) herein above described together with such additional real property as the Declarant may acquire and subject to the provisions of this Declaration of Covenants, Restrictions and Easements in accordance with the provisions

of Article X hereof.

1.11 Restrictions. "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.12 Structure. "Structure" means:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot and

(c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.12 applies to such change.

ARTICLE II COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) The Declarant may from time to time convey to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners (such real and personal property is hereinafter collectively referred to as Common Property and, to the extent set forth in this Declaration of Covenants, Restrictions and Easements, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for scenic and natural area preservation and for general recreational use to include facilities for swimming, boating, tennis and exercise. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

2.02 Right of Enjoyment. Every Owner shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Sections 2.03 (f) and 3.05.

2.03 Rights of the Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest any or all of the Association's property including Common Property and revenues from assessments, user fees and other

sources; and provided, however, that, during the period prior to the time when the Class A Members (as hereinafter defined) have the right to elect an absolute majority of the Board, the Association shall not deed, grant or convey to anyone any mortgage, deed to secure debt or other security interest on or in Common Property constituting real estate without approval by a two-thirds (2/3) vote of those Class A Members who are present in person or by proxy and voting at a setting of Members duly held in accordance with the By-Laws of the Association;

(c) grant easements or rights of ways over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by a two-thirds (2/3) vote of those Class A members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association, cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;

(e) charge reasonable fees in connection with the admission to and use of facilities or services; provided that in sitting such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(f) suspend, pursuant to Section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(g) to sell, lease or otherwise convey all or any part of its properties and interests therein; and

(h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof.

2.04 Types of Common Property. At the time of the conveyance of any real property by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance that such real property is to be Common Property, and further may designate in the deed of Conveyance the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without a two-thirds (2/3) vote of those Class A Members who are present in person or by proxy and voting at a meeting of the Members duly held in accordance with the By-Laws of the Association, be used for any different purpose or purposes. (Amended 11/10/88)

2.05 Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the By-Laws, his right to use and enjoy the Common Property.

ARTICLE III CHIMNEY LAKES HOMEOWNERS' ASSOCIATION

3.01 Purposes Powers and Duties of the Association. The Association shall be formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development. The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the people of the Development. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers of a corporation organized under the Georgia Nonprofit Corporation Code and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration.

3.02 Membership in the Association. Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Restrictions and Easements.

3.03 Voting Rights. The Association shall have two classes of voting membership:

(a) Each Owner, with the exception of the Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote. Where such Owner is a group or entity other than one individual

person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the Secretary of the Association;

(b) The Declarant shall be the sole Class B member and shall be entitled to three (3) votes for each Lot owned. Subject to the terms and conditions of subsection (c) of this Section 3.03, the Class B Membership shall cease and be converted to Class A Membership upon the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership; or

(ii) on December 31, 2000.

(c) It is presently contemplated by the Declarant that the Development will be composed of approximately 359 Lots to be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the Office of the Clerk of the Superior Court of Cobb County in accordance with Article X of this Declaration. The Declarant shall notify the Association in writing when the final phase of the Development has been so platted of record. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Class B Membership will automatically increase in accordance with the formula set forth in subsection (b) of this Section 3.03, and in no event shall Class B Membership cease and be converted to Class A Membership (as provided in subsection (b) of this Section 3.03) until after the association receives the written notice provided for in the preceding sentence or December 31, 2000, whichever occurs earlier, provided, however, that nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development unless such phase is subjected to this Declaration.

3.04 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the By-Laws of the Association.

3.05 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02 by reason of having failed to take reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Section 5.11, Section 6.14 or Section 8.02 hereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property. Such suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default. as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.05, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or regress from his Lot.

3.06 Termination of Membership. Membership shall cease only when a person ceases to be an Owner.

3.07 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Georgia Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall from time to time be in force and effect.

ARTICLE IV ASSESSMENTS

4.01 Covenant for Assessment and Creation of Lien and Personal Obligation. The Declarant, to the extent that Declarant is an Owner, hereby covenants and agrees, and each Owner, jointly and severally, for himself, his heirs, distributors, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.09 hereof and costs of collection including reasonable attorneys' fees;

(d) that such continuing charge and lien on such Lots binds such Lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures.

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot or Lots from liability for any assessment thereafter assessed;

(f) that all annual and special assessments (together with interest thereon as provided in Section 4.09 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot or Lots owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot or Lots as provided in Section 4.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot or Lots owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the new community of the Development, including, but not limited to, security, the acquisition, construction, improvement, maintenance and equipping of Common Property, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association and the payment of all principal and Interest when due on all debts owed by the Association.

4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may do to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.04 Maximum Annual Assessment

(a) Beginning on the Commencement Date (as hereinafter defined) and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to a maximum annual assessment of One Hundred Twenty and 00/100 (\$120.00) per Lot. In the event that the Commencement Date falls on a day other than January 1, the annual assessment for such year shall be prorated so that each Owner pays an annual assessment proportional to the number of days remaining in the calendar year. The words Assessment Year as used herein shall mean the calendar year with the first Assessment Year commencing on January 1 of the year immediately following the Commencement Date. (Amended 05/29/81)

(b) Commencing with the first Assessment Year and continuing thereafter, the maximum annual assessment may be increased at any time and from time to time during each Assessment Year not more than five per cent (5%) above the maximum annual assessment for the previous Assessment Year without a vote of the Membership. During the first Assessment Year, the maximum annual assessment may be increased five per cent (5%) above \$120.00. (Amended 05/29/81)

(c) Commencing with the first Assessment Year and continuing thereafter, the maximum annual assessment for each Assessment Year may at any time and from time to time be increased more than five per cent (5%) above the maximum annual assessment for the previous Assessment Year if such

increase is approved by a two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration. During the First Assessment Year, the maximum annual assessment may be increased by more than five per cent (5%) above \$120.00 if such increase is approved by a two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration. (Amended 05/29/81)

4.05 Special Assessment for Capital Improvements. In addition to the annual assessments authorized by this Article IV, the Association may levy, in any Assessment Year and with such frequency as the Association shall deem necessary, special assessments for the purpose of paying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common property, provided that any such special assessment shall have been approved by a two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

4.06 Assessment Procedure.

(a) The Board shall establish the annual assessment for each Assessment Year at an amount not in excess of the maximum annual assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual assessment shall be due and payable (such date is hereinafter referred to as the Due Date). The Board shall cause the Association to send to each Owner at least thirty (30) days in advance of the Due Date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the thirtieth (30th) day following such written notice or the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article IV.

(b) All Members of the Association shall be given written notice by the Board not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Members of the Association at which the Board shall propose taking action pursuant to Section 4.04(c) and Section 4.05 of this Article IV. Such written notice shall specify under which Section or Sections the Board will propose action. At such meeting, the presence of Members or of proxies entitled to cast sixty per cent (60%) of the total votes outstanding in each class of Members shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be thirty per cent (30%) of the total votes outstanding in each class of Members. No such second meeting shall be hold more than sixty (60) days following the first meeting.

4.07 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

4-08 Commencement Date for Annual Assessment. All Lots shall become subject to Annual Assessment as provided for in this Article IV on the date designated by Declarant. Such date is herein referred to as the "Commencement Date".

4.09 Effect of Nonpayment of Assessments. Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the rate of eight per cent (8%) per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any assessment prior to the date at which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot enforceable in accordance with the provisions of this Declaration.

4.10 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner

as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

Section 4.11. Initiation Fee. In addition to the annual, specific and other special assessments provided for herein, the purchaser or grantee of every Lot shall be assessed and be subject to a non-refundable, non-prorated initiation fee ("Initiation Fee") upon any and each conveyance or transfer of the Lot to any person other than: (1) to the spouse or heir of the Owner, or (2) a first priority mortgage holder or secondary purchase money mortgage holder who takes title to a Lot through foreclosure of such mortgage or deed in lieu of foreclosure of such mortgage. The Initiation Fee shall be in an amount equal to the annual assessments for that fiscal year. The Initiation Fee shall be due and payable at the time of each such conveyance or transfer, and shall be collected at the closing of each such conveyance or transfer. The Initiation Fee shall constitute an assessment and continuing lien against such Lot, and a personal obligation of the Owner of such Lot, from the time it is due until it is paid in full, pursuant to this Article. (Amended 01-20-06)

ARTICLE V ARCHITECTURAL CONTROL

5.01 Architectural Control Committee - Creation and Composition.

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than three (3) or more than five (5) individuals, provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, all members of the ACC shall be appointed by the Declarant until the first to occur of (i) December 31, 2000 or (ii) until every Lot is conveyed by Declarant to a party or parties who are not classified hereunder as a successor or assign of Declarant. All costs of operating the ACC shall be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a term expiring on December 31, 1981. Thereafter each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall be filled by the Board at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC).

5.02 Purpose, Powers and Duties of the ACC. The purpose of the ACC is to assure that any installation, construction or alteration of any Structure on any Lot or Common Property shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Chimney Lakes Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot or Common Property. (Amended 11-10-88)

5.03 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the ACC.

5.04 Operations of the ACC.

(a) Meetings. (Amended 11/97)

(i) The ACC shall hold regular meetings as needed to conduct its business. Meetings may be called by the Chairperson, and shall be called by the Chairperson upon the written or telephone

request of any two members of the ACC.

(ii) Meetings of the ACC shall be held at a time and place specified by the Chairperson.

(iii) Notice of meeting shall be given by the Chairperson to each member of the ACC not less than twenty-four (24) hours before the time at which such meetings are to convene. Said notice may be given by telephone, or by any other form of written or verbal communication. Notice of meeting need not specify the purpose or purposes for which the meeting is called. Members of the ACC may waive notice of any meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting.

(iv) At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. The act of a majority of the members of the ACC present at a meeting at which a quorum is present shall constitute the act of the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motive or appeal by the applicant to the ACC as provided in this paragraph.

(iii) Written notice of the decision of such two (2) or more members shall, within five (5) days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

5.05 Design Standards.

(a) The Design Standards shall be changed or amended only by a two-thirds (2/3) vote of Class A Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

(b) The ACC shall promulgate and enforce guidelines (the Design Standards for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedure for such submission of plans and specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and

(iv) assuring the conformity and harmony of external design and general quality of Chimney Lakes Development.

(c) The ACC shall make a published copy of its current Design Standards readily available to Members and prospective Members of the Association and to all applicants seeking the approval. (Amended 11-9-89)

5.06 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot or Common Property nor shall any existing Structure upon any Lot or Common Property be altered in any way which materially changes the exterior appearance of the Structure or Lot or Common Property, unless plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards,

including, without being limited to:

(a) a site plan showing the location of all proposed and existing Structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof;

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all back-filling and landscaping are completed;

(e) Specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and

(f) plans for landscaping and grading. (Amended 11-10-88)

5.07 Approval of Plans and Specifications. Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.08 Disapproval of Plans and Specification. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure

(i) to fail to be in conformity and harmony of external design and general quality with the standards for Chimney Lakes Development as set forth in the Design Standards, or

(ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09 Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by ACC to take action within thirty (30) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

5.10 Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to

the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided to Section 8.02 here of.

5.12 Certification of Compliance.

(a) Upon the completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such Certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

5.13 Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.

5.14 Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

ARTICLE VI

GENERAL COVENANTS AND RESTRICTIONS

6.01 Application. The covenants and restrictions contained in this Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02 Restriction of Use. Lots may be used for single-family residences only and for no other purpose provided that Declarant may operate a Sales Office and/or Model Home on a Lot or Lots designated by Declarant.

6.03 Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer or otherwise, without the prior written approval of the ACC of plans and specifications for such split, division or subdivision.

6.04 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not at limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 6.05. Guidelines for the prevention and control of erosion and siltation may be included In the Design Standards of the ACC.

6.05 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration. Guidelines for the landscaping to accompany the construction or alteration of any Structure shall be included In the Development Guidelines of the ACC.

6.06 Trees. No tree having a diameter of six (6) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 6.05 hereof. Guidelines relating to the preservation of trees and other natural resources and wildlife upon the Property may be included in the Design Standards of the ACC.

6.07 Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefor approved by the ACC. No contractor or builder shall tract on any Lot any temporary building or shed for use in connection with construction on such Lot.

6.08 Signs

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the ACC's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Lot or Common Property, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one For Sale or For Rent sign, such sign having a maximum face area of four square feet provided, however, that if, at the time of any desired use of such sign, the Association is making For Sale or For Rent signs available for the Owners' use, the signs made available by the Association must be used;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC.

(b) In no event during approved construction of any Structure shall more than one job identification sign be approved by the ACC. Except as provided in the Design Standards, no Sold sign shall at any time be installed or maintained on any Lot or on any portion of the Structure visible from the exterior thereof. (Amended 11-10-88)

6.09 Setbacks. In approving plans and specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. Guidelines for setbacks may be included in the Design Standards of the ACC. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

6.10 Fences. No fence or wall of any kind shall be erected, maintained, or altered on any Lot or Common Property without the prior written approval of the ACC of plans and specifications for such fences and walls. Guidelines relating to the design, location and uses of fences and walls may be included in the Design Standards of the ACC. (Amended 11-10-88)

6.11 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standards of the ACC.

6.12 Antennas. No antennas installed on the exterior of any Structure or on any Lot shall be visible from the street abutting such Lot unless approved by the Architectural Control Committee. (Amended 11-10-88)

6.13 Clotheslines. No outside clothesline placed on any Lot shall be visible from any Common Property or from the street abutting such Lot.

6.14 Maintenance. Each Owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon, in good condition and repair, including, but not limited to

(i) the repairing and painting (or other appropriate external care) of all Structures,

(ii) the seeding, watering and mowing of all lawns and

(iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. If in the opinion of the ACC, any Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof. Guidelines relating to the maintenance of Structures and landscaping may be included in the Design Standards of the ACC.

6.15 Recreational Vehicles and Trailers. The ACC, in reviewing the plans and specifications for any proposed Structure, may require that special parking areas be made available for recreational vehicles. **No trailer, trailer house, boat or recreational vehicle shall be parked on any Lot,** except on such parking areas as specified by the ACC pursuant to this Section 6.15 or within enclosures or behind screening

erected in accordance with plans and specifications submitted to and approved by the ACC as required by Section 5.06 of this Declaration. Guidelines relating to screening may be included in the Design Standards of the ACC. While nothing contained herein shall prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use, appearance and maintenance of such a building or trailer must be specifically approved by the ACC prior to its being moved on the construction site.

6.16 Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot, except that basketball goals, backboards and poles may be placed or installed other than upon the rear of a Lot, provided they are painted and maintained in accordance with the Design Standards. (Amended 3-13-84)

6.17 Nondiscrimination. No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

6.18 Waterfront land.

(a) On Lots adjacent to lakes, ponds, rivers, streams, creeks or other water bodies or courses

(i) no boat canal shall be dug or excavated therein, except with the prior written approval of the ACC of plans and specifications for said digging or excavation

(ii) no bulk heading, barge, docks, piling, float or other marine Structure shall be erected adjacent thereto or thereupon without the prior written Approval of the ACC of plans and specifications for such Structure; and

(iii) no refuse of any kind shall be placed on or disposed of therefrom into the adjacent waters.

(b) On lakes, ponds, rivers, streams, creeks or other water bodies or courses comprising any part of the Property, (i) no boat shall be moored so as to obstruct navigation; (ii) no power boat shall be used except a boat powered by an electric motor with a power rating not to exceed 3.5 horsepower; and (iii) no boat of a length greater than fifteen (15) feet, except canoes, shall be launched or used.

6.19 Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have been approved by the ACC.

6.20 Solid Waste.

(a) (Amended 11/97)

(i) No person shall dump rubbish, garbage, grass clippings, yard waste, or any other form of solid waste on any Common Property.

(ii) No person shall dump rubbish, garbage, or any other form of solid waste on any Lot, except that a compost pile for grass clippings, leaves, and yard waste may be used on a Homeowner's own property provided that it is not visible from any street, and is either in an inconspicuous location or screened in a manner approved by the ACC,

(b) Except during approved construction, no person shall burn rubbish, garbage or any other form of solid waste on any Lot or on Common Property.

(c) Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards.

(d) If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that a pickup is to be made, in order to provide access to persons making such pickup. At all other times such containers shall be installed underground or screened or enclosed in a manner set forth in the Design Standards. Guidelines relating to the type of containers permitted, the manner of storage and the place of pickup may also be included in the Design Standards.

6.21 Mailbox and Post. After the Effective Date of this Amendment (the date the Amendment is

recorded in the Cobb County, land records), prior to the sale or transfer of a Lot, the mailbox post and box for that Lot must be replaced with a uniform approved metal mailbox and post, black in color. As of the Effective Date of this Amendment, the uniform approved brand of the required mailbox and post is The Imperial System. The Imperial System mailbox and post specifications are as follows: black aluminum and stainless steel - Post 5, Finial 5, Number Plate 2 and Box 0 with a standard knob (includes standard scroll support brace). Newspaper boxes are prohibited. Owners may purchase the required mailbox post and mailbox from any company that makes them with the same specifications as set forth herein. In the event The Imperial System or the specifications are discontinued, the Board may establish new specifications and requirements and publish them to the members.

Notwithstanding the above, all Owners of Lots, regardless of whether there is a transfer or sale, must replace his/her existing mailbox and post with the above referenced mailbox and post within three (3) years of the Effective Date of this Amendment. Failure to replace the existing mailbox and post with the mailbox and post required hereunder within the three (3) year period of time, shall authorize the Association to enter upon the Owner's Lot, remove and discard the existing mailbox and post, and replace the mailbox and post with that which is required herein. All costs incurred by the Association in taking this action shall be assessed against the Owner and the lot as an assessment as set forth in Article IV and secured by a lien against the property.

ARTICLE VII EASEMENTS, ZONING, AND OTHER RESTRICTIONS

7.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow

(iv) the planting or re-planting, of hedges, shrubbery, bushes, trees, flowers and plant of any nature; and

(v) lake maintenance, access and recreational use for portions of the Property abutting lakes which easements may be for the benefit of the Declarant and Owners.

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion at the Property unless such easement has been assigned by the Declarant to the Association.

7.02 Easement Area. The words Easement Area as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.

7.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.01.

7.04 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between

such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE VIII ENFORCEMENT

8.01 Right Of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association and (iii) each Owner, his legal representatives, heirs, successors and assigns.

8.02 Right of Abatement.

(a) Except where different notice provisions are provided in Sections 5.11 and 6.14, in the event of a violation or breach of any Restriction contained in this Declaration the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Association shall have the Right of Abatement.

(b) The Right of Abatement, as used in this Section and in Sections 5.11 and 6.14 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section. All costs of said action, including the costs of collection including reasonable attorneys' fees, together with interest thereon at eight percent (8%) per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia, are to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all deeds to secure debt given to secure a loan the proceeds of which are to be used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures. (Amended 11-8-84)

8.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and, therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

8.04 Collection of Assessments and Enforcement of Lien.

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in Cobb County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week, for four weeks immediately preceding such sale (but without regard to the number of days) in

the paper in which the Sheriff's advertisements for Cobb County, Georgia are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Lot or Lots, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or other charge due, together with all costs and expenses of sale and fifteen per centum of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) WAIVER. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE STATE OF GEORGIA OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

8.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, its or his respective legal representation, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a Waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE IX DURATION AND AMENDMENT

9.01 Duration. This Declaration and the Restrictions contained herein shall run with and bind the property for a period of twenty (20) years from and after the date when this Declaration is filed for record with the Clerk of the Superior Court of Cobb County, Georgia. However, notwithstanding said twenty (20) year limitation, this declaration and the restrictions contained herein shall run with, bind the Property and shall automatically be renewed for successive periods of twenty (20) years, and there shall be no limit on the number of times such Declaration shall be renewed, unless terminated as provided in O.C.G.A., Sec. 44.5.60(d)(2). (Amended 08-14-95)

9.02 Amendment. This Declaration and the Restrictions contained herein may not be amended in any respect except by an amendment executed by the proper Association officers and recorded in the office of the Clerk of the Superior Court of Cobb County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such Instrument, pursuant to a resolution approving such amendment which is approved by a two-thirds (2/3) majority vote of those Class A Members of the Association who are present in person or by proxy and voting at a meeting duly held in accordance with the provisions of the By-Laws of the Association, provided, however, that so long as there is a Class B Member, this Declaration and the Restrictions may not be amended without the approval of the Class B Member.

ARTICLE X
ANNEXATION

Additional real property may be annexed to the Property by the Declarant without the consent of the Class A Members at any time for a period of ten (10) years following the date on which this Declaration is filed in the Office of the Clerk of the Superior Court of Cobb County. Such annexation shall be accomplished by filing in the Office of the Clerk of the Superior Court of Cobb County an approved subdivision plat describing the real property to be annexed to the Property and by including on such subdivision plat a statement that expressly sets forth the Declarant's intention to make such annexed real property subject to the provisions of this Declaration. At the expiration of ten (10) years following the date of filing of this Declaration, no real property may be annexed to the Property unless such annexation is approved by a two-thirds (2/3) vote of the Class A Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association. (Amended August 15, 1995 as follows:)

The following described real property has been annexed to the property, governed by the Declaration after having been approved by two-thirds (2/3) vote of the Class A Members of the Association who were present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association on June 20, 1995.

All that tract or parcel of land lying and being in Land Lots 397 and 468 of the 16th District 2nd Section, Cobb County, Georgia, consisting of an 11.7 acre tract more particularly described in that certain site plan prepared by Franzman/Davis & Associates, Ltd. For Riverfront Properties, Dated May 30, 1995, a copy of same being attached hereto, made a part hereof by reference, and marked as Exhibit "A".

ARTICLE XI
MISCELLANEOUS

11.01 No Reverter. No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.02 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

11.03 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

11.04 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.05 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the ACC, the Owner, or any other person, shall be in writing. Unless otherwise specified, all such writings shall be sufficient if deposited in the United States mail, with sufficient postage, or hand-delivered to the following addresses

(a) Declarants: Arvida of Georgia, Inc. (Corporate Office)
6100 Lake Forrest Drive NW
Atlanta, Georgia, 30329

(b) Owners: Each Owner's address as registered with the
Association in accordance with the By-Laws.

Any written communication transmitted in accordance with this Section 11.05 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail or hand-delivered. (Amended 1-25-90)

11.06 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

ARTICLE XII
SHALLOWFORD ROAD PROPERTY

A maximum number of fifteen (15) titleholders of lots within that certain 13.5881 acre tract of land on Shallowford Road known as Chimney Lakes Estates ("Subject Property") shall have the right to the use and enjoyment of the swimming pool, tennis courts, clubhouse, recreational and ancillary facilities within Chimney Lakes Subdivision. Membership for all record titleholders (hereafter known as "Class C members") within the Subject Property shall be mandatory with said privileges being enjoyed upon completion of the following:

12.01 Upon the initial closing of each lot within the Subject Property, the Builder shall pay to the Association the annual assessment in an amount commensurate with the sum set by the Association with said sum being paid each year thereafter by the Builder or its successors in title.

12.02 As a one-time assessment, the additional, non-refundable, sum of \$2,500.00 per lot shall be paid to the Association for the use of all amenities and other privileges afforded Association members with said sum being due and payable on or before the sale of the home by the Builder to its successors in title. However, in no event, shall such Class C members attain voting status or voting privileges.

12.03 Class C membership shall not subject said members to special assessments set by the Association nor shall said membership subject said members to annual assessments higher than those being paid by Class A members.

12.04 Annual assessments for all Class C members shall be paid as a single sum by the Homeowners Association of the record titleholders within forty- five (45) days of billing. If, for whatever reason, any record titleholder within the Subject Property shall refuse to abide by the mandatory status as defined herein above, then, and in that event, said Class C membership shall terminate in its entirety with respect to all titleholders within the Subject Property. (Amended 10-19-98)

IN WITNESS WHEREOF, this Declarant has caused this Declaration to be duly executed and sealed the day and year first above written.

The Association, by the execution hereof, acknowledges and agrees that the Association is hereby bound by all of the Association's obligations under this Declaration of Covenants, Restrictions and Easements.

IN WITNESS WHEREOF, the Association, acting through its duly Authorized Officers, has caused this Declaration to be executed and sealed this 20th day of June, 1980.

Signed, Sealed , delivered in the presence of:

(All signatures are excerpts from the original printing of the Declaration of Covenants, Restrictions and Easements.)

Amended: 05-29-81
Amended: 03-15-84
Amended: 11-08-84
Amended: 11-10-88
Amended: 11-09-89
Amended: 01-25-90
Amended: 08-14-95
Amended: 11-13-97
Amended: 10-19-98
Amended : 01-20-06

October, 2006