

COUNTRY ESTATES CONDOMINIUM

PROPOSED SMOKING RESTRICTION

AMENDMENT TO THE MASTER DEED

1. Amend the Master Deed of Country Estates Condominium by adding the following as a new section to be known as Section 9 (f):

SMOKING: Smoking is prohibited everywhere on the property of the Country Estates Condominium including, but not limited to, in (i) the individual Units; (ii) indoor and outdoor exclusive use areas appurtenant to any unit or units, including any deck, patio, balcony, porch, or parking space; and (iii) all other indoor and outdoor common areas and facilities. No unit owner shall smoke, or permit smoking by any occupant, agent, tenant, invitee, licensee, guest, friend, or family member, anywhere on the Condominium property. For purposes hereof, smoking shall include the inhaling, exhaling, breathing, carrying, or possessing of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, marijuana, or any other similar heated or lit product whether or not containing tobacco or marijuana.

- a. Notwithstanding the said prohibition against smoking, the Board of Trustees, in its sole discretion, may designate (or remove from designation), from time to time, an outdoor area for smoking, provided the smoking area(s) shall not cause secondhand smoke to drift into indoor common areas, exclusive use areas, or individual units.
- b. While this restriction is intended to render the Condominium premises (except to the extent provided in the immediately preceding paragraph) smoke free, the Board of Trustees is not a guarantor of a smoke-free environment hereunder. The Board of Trustees shall have the right, but not the obligation, to enforce this restriction if the Board determines, in its sole discretion, that it is appropriate to do so in any individual case or circumstance. If the Board of Trustees determines to take any such action, then in addition to its other rights and remedies under the constituent documents of the Condominium, at law, and in equity, the Board of Trustees shall be entitled to recover its costs and expenses, including all attorneys' fees and court costs, incurred in enforcing this restriction.
- c. If the Board of Trustees determines, in its sole discretion and for any reason, not to pursue enforcement of this restriction in any individual case or circumstance, any unit owner may bring his or her own separate action to enforce this restriction against any other unit owner who violates (or whose unit occupant, agent, tenant,

invitee, licensee, guest, friend, or family member violates) this provision. If a unit owner who brings such an action succeeds in establishing that the other unit owner has violated this restriction, the unit owner bringing such action shall be entitled to recover his or her costs and expenses, including reasonable attorneys' fees and court costs, incurred in such action from the other unit owner.

- d. No unit owner, occupant, agent, tenant, invitee, licensee, guest, friend, family member or other person shall be entitled to recover from the Board of Trustees any attorneys' fees, court costs, or other costs or expenses incurred in any action brought by, or against, the Board of Trustees under or pursuant to this restriction, including, without limitation, any action to enforce this restriction or any action for failure to enforce this restriction, regardless of whether or not any such unit owner, occupant, agent, tenant, invitee, licensee, guest, friend, family member or other person prevails in such action.
- e. Grandfathering Provision: Notwithstanding the foregoing, any resident of a unit who is a smoker at the time of the recording of this instrument with the Registry of Deeds, shall be temporarily exempt from enforcement of this smoking restriction in the unit by the Board of Trustees, if the unit owner of such unit signs and delivers to the Board of Trustees a notice identifying each smoker then residing in the unit, and such notice is delivered to the Board of Trustees no later than ten (10) days after the recording of this instrument with the Registry of Deeds. Such a resident is referred to hereafter as a "Grandfathered Resident." Any temporary exemption of a Grandfathered Resident hereunder shall apply only to smoking within the unit, and shall be subject to such conditions as the Board of Trustees, in its sole discretion, may impose by written condition, rule, or regulation, and the following conditions:
 - i. The temporary exemption shall apply only to smoking inside the unit, and the Grandfathered Resident shall be subject to all other provisions of this smoking restriction at all times; and
 - ii. The temporary exemption shall terminate when the Grandfathered Resident vacates, or no longer resides in, the unit; and
 - iii. The Board of Trustees, acting in its sole discretion, may terminate the partial and temporary exemption of a Grandfathered Resident upon the occurrence of any one of the following: (a) the Board of Trustees receives one or more complaints of second-hand smoke detectable in other units or common areas; or (b) the Grandfathered Resident or unit owner of such unit violates any condition contained in this grandfathering provision, violates any other provisions of this smoking restriction, or violates any

written condition, rule, or regulation adopted by the Trustees applicable to the Grandfathered Resident.