

This instrument prepared by:

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STATE OF FLORIDA
COUNTY OF OKALOOSA

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF
MAGNOLIA CREEKS HOMEOWNERS ASSOCIATION**

THIS DECLARATION, made on the date hereinafter, set forth by Magnolia Creeks LLC a Florida Limited Liability Company hereinafter referred to in this Declaration as "Declarant". WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Okaloosa County, State of Florida, referred to in the Covenants as the "Property", and according the Plat as recorded in Plat Book 30, Pages 67+68, known as Magnolia Creeks and described as follows:

**SEE EXHIBIT "A" ATTACHED AND MADE A PART HEREOF BY
REFERENCE.**

WHEREAS, the Declarant believes the quality and desirability of the subdivision being developed as Magnolia Creeks Homeowners Association can best be protected by protective covenants imposed upon all lots; and,

NOW THEREFORE, Declarant hereby imposes upon all of the property described above the following easements, restrictions, conditions and covenants which are for the purpose of protecting the value and desirability of the property. These covenants shall run with the title to all the property described above and be binding on all parties having any

right, title and interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of the owners thereto, the Declarant and its successors in title and others described herein. The Declarant is not subject to these covenants so long as the declarant owns a lot within the subdivision.

ARTICLE I. DEFINITIONS.

1. **"ASSOCIATION"** shall mean and refer to the Magnolia Creeks Owners' Association, its successors and assigns.

2. **"COMMON AREA"** Common Area shall be all real or personal property owned by the Association or controlled or used solely by members of the association, unless ownership is retained by the Declarant. The roads and sidewalks shall be considered Common Area whether or not dedicated to Okaloosa County.

3. **"DECLARANT"** shall mean and refer to DEVELOPER, its successors and assigns.

4. **"EASEMENT"** shall refer to any right of access or easement stated herein or on the plat of record which shall run with the land.

5. **"HOUSE", "RESIDENCE", "BUILDING", "STRUCTURE", OR "DWELLING"** as used herein, including reference to building lines, shall include galleries, porches, pools, projections, and every other permanent part of such improvements, except roofs and air conditioning compressor slabs. The above terms do not include sidewalks or driveways.

6. **"IMPROVED LOT"** shall mean a lot that has had any type of action taken by the Owner or the Declarant in preparation for building, including but not limited to, clearing the lot or constructing any structure on the lot, but not including surveying or the installation of any utility service. All lots must that are built upon must be 6 inches above the top of the adjacent basin. All home construction finished floor elevation must be 12 inches above the top of the adjacent basin.

7. "INITIAL CLOSING" shall mean the initial closing of any lot shall be the date on which title passes from the Declarant to the first purchaser of that lot, including a builder.

8. "LOT" shall mean and refer to each parcel of land as described in the plat of the recorded subdivision described in the preamble hereof and known as Magnolia Creeks.

9. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the property which is made subject to this Declaration pursuant to the preceding section.

10. "PROPERTIES" shall mean and refer to that certain real property described in the preamble hereof and those additions anticipated at developer's sole discretion in future phases of development.

11. "STORMWATER MANAGEMENT SYSTEM" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapter 62-330, F.A.C.

ARTICLE II. MEMBERSHIP AND VOTING RIGHTS.

1. **Membership in Association:** Every Owner of a residential lot which is subject to assessment is required to be a member of the Association.

2. **Votes of Membership:** Although the Declarant shall control the Association during the development stage, the owners will eventually be responsible for the continuation of the Association and shall have two classes of voting membership. All

members, shall be owners of lots unless it is the declarant who owns either a lot or land within the subdivision or adjoining land.

Voting Rights. The association will have two classes.

- a) Class A.. Class A members are all owners of lots other than the declarant/developer. Class A will be entitled to one vote for each lot owned.
- b) Class B. Class B member is declarant, which shall be entitled to 100 votes in all matters for each lot owned or land owned within the subdivision or land that is owned adjacent. The class B membership will end and be converted to Class A membership 3 months after the last to occur of the following events.
 - i) The total outstanding votes in Class A membership equals the outstanding votes of Class B.
 - ii) All phases of Magnolia Creek have been completed and made subject to this declaration. Phases of Magnolia Creek is defined as adjacent land and within the sole discretion of developer.

ARTICLE III. COVENANT FOR MAINTENANCE ASSESSMENTS.

1. **Maintenance of Common Areas:** The Association shall have the responsibility to maintain the entrance areas, common areas, and such other areas as are identified herein.

2. **Creation of Lien and Personal Obligation for Assessments:** Each Owner of any lot, with the exception of the Declarant, by acceptance of a deed thereof, whether or not it shall be so expressed in such, is deemed to agree to pay to the Association: (1) annual assessments or membership dues; (2) special assessments for capital improvements

provided for in these covenants and/or the Association By-Laws. The annual and special assessments, together with interest, costs and reasonable attorney fees incurred in the collection thereof with or without litigation, shall be a charge on the lot and shall be a continuing lien upon the lot against which each assessment is made. THE DECLARANT WILL OWE NO ASSESSMENTS FOR LOTS UNSOLD.

3. **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the properties and for the improvements and maintenance as the Association deems necessary.

4. **Maximum Annual Assessment Membership Fee:** Until January 1 of the year immediately following the initial conveyance of any lot within this Property from the Declarant to any Owner, the quarterly membership fee shall be **\$95.00** per lot, payable quarterly in advance, as to all lots which are subject to this Declaration. Until such time as the Declarant no longer pays contributions to the expenses of the Association, the Declarant shall set the annual assessment. The annual assessment shall be established as follows:

1. The budget for the Association shall be established according to its ordinary and reasonable expenses taking into consideration prior years expenses, projects then planned or completed, and activities anticipated for the future year.

2. Administrative expenses applicable to corporate business, including insurance fees, accounting fees, legal costs, and a category for miscellaneous expenses.

The budget shall be divided into equal quarterly payments assessed against each lot after the initial closing. An initial fee for the first quarter will be charged at the initial closing of each lot from the Declarant. The Declarant will pay the difference between the annual budget and the Association's actual income from fees until one-half of the lots contained within the Property have been sold and closed. Thereafter, members other than

Declarant will pay any shortfall in annual budget by raising the fee charged to lot owners.

The owners shall not be obligated to pay a contribution for any lot except as provided herein.

The annual assessments shall be determined by the budget established by the Board of Directors during each year. That annual assessment and a copy of the budget shall be circulated to the members at least 30 days prior to the end of each year. A special meeting may be called by petition of 50% of the lot owners, and a vote of 50% of the lot owners shall determine the amount of the budget if a special meeting shall be called challenging any increase in the budget above the prior year.

The maximum annual assessment or membership fee of all lots subject to the Declaration may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without the vote of the majority of those attending a membership meeting called for that purpose. An initial fee in the amount of **\$200.00 will be charged at the initial closing of each lot from the Declarant.**

5. **Special Assessments for Capital Improvements:** In addition to the annual assessment or membership fee authorized above, the Association may levy, in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto.

6. **Uniform Rate of Assessment:** Both annual and special assessments must be fixed at a uniform rate for all residential lots. Commercial areas shown on the plat are not subject to assessments by the Association but may pay common area maintenance fees pursuant to separate agreements with the Declarant.

7. **Date of Commencement of Annual Assessments; Due Dates:** The annual assessments provided for herein shall commence as to each lot in Magnolia Creeks on the

first day of the month following the recording of its conveyance from the Declarant. Declarant reserves the right to require a non-refundable deposit of the first year's assessment.

8. **Effect of Nonpayment of Assessments; Remedies of the Association:**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest annual rate of interest then permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same and may foreclose the lien against the property. No owner may waive or otherwise escape liability for assessments provided for herein by abandonment of the lot. Suspension of voting rights shall not suspend the liability for assessments provided for herein.

9. **Subordination of the Lien to Mortgages:** Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to the date of filing the foreclosure action. Such lien shall remain a personal debt of the Owner foreclosed upon.

10. **Notice and Quorum for Any Action Authorized:** Written notice of any special meeting called for the purpose of taking any action authorized by this Declaration shall be sent to all lot owners not less than fifteen (15) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast a majority of the votes of the membership shall constitute a quorum. If the required quorum is not present, the meeting may be postponed until a day and time certain, at which occasion the meeting will be called to order if a quorum is present.

ARTICLE IV. DESIGN REVIEW.

1. **The Architectural Review:** Magnolia Creeks shall have an Architectural minimum design code. Initially, the design code committee shall be the declarant until such time as the declarant loses any Class A or Class B votes. The Declarant is not subject to these restrictions so long as declarant owns a lot or land within the subdivision or land that adjoins the subdivision that may be annexed into the subdivision. After transition to the HOA, there shall be a three (3) members committee appointed by the board. The declarant is exempt from the Covenants and Restrictions and Design Code. The Declarant hereby authorizes that Lennar Homes LLC, a Florida LLC as a designated builder for Magnolia Creeks. Lennar agrees that it is taking possession of lots within a subdivision that is brand new. The sight construction is in a condition that Lennar accepts is in good and working condition. Lennar hereby acknowledges that all pipes and ponds are clean and functioning properly. Lennar is responsible pursuant to these recorded instruments and all of its authority for any curb or pavement destruction or damage or failure as a result of construction traffic. Further, for erosion control and clean out of any sediment or debris as required by these instruments, or any governmental agency. This duty shall continue as long as Lennar has a home under construction or has not sold a home that is completed. All homes shall be constructed at or above 6 inches above grade of the top elevation of an adjacent retention basin or pond. Further, all finished floor elevations must be at least 12 inches above the top elevation of the adjacent retention basin. Failure to construct in harmony with these requirements shall be considered a per se violation of these recorded restrictions, subject to any and all remedies stated herein.

2. **Application Fee:** The ARC may charge a non-refundable application fee to cover the expenses of reviewing homesite plans. In addition, the ARC may also charge its actual expenses in review of said plans, if any.

3. **Approval and Waiver:** No lot shall be cleared, nor any building, swimming pool or other structure erected, placed or altered on any building lot in the subdivision

until the plans, materials, specifications and plot plan have been approved in writing by the ARC. Consideration will include, but is not limited to, the conformity and harmony of external design and location with existing structures in the subdivision and in the immediate vicinity and the quality of design, workmanship and proposed materials. Location of the buildings or other structures with respect to topography and finished ground elevation will also be considered by the ARC. In the event the ARC fails to approve or disapprove the proposed plans, material specifications and plot plan of a proposed structure within thirty (30) days from the date of written submission to Declarant, such approval shall not be required, and these covenants shall be deemed to have been fully complied with. Lennar homes, or any builder, shall not build any home on any lot that has grade less than 6 inches above grade to the top of the adjacent basin/retention pond. Prior to any build, enough fill shall be delivered and installed to effect a grade that is 6 inches above the grade of the adjacent basin/retention pond. Further, for the same reasons, all home construction finished floor elevations must be 12 inches above the top of the nearest adjacent basin.

Approval by the ARC does not constitute approval by Okaloosa County, Florida or any other governmental agency. Each Owner shall be responsible for obtaining all required permits and approvals from each and every governmental agency having control over construction and development in this subdivision.

4. **Single Family Dwelling:** No structure shall be erected, altered, placed or permitted to remain on any building lot, other than one detached single-family dwelling, except swimming pools, and structures herein otherwise defined. There is a minimum requirement of an enclosed car garage for each dwelling. This must be attached to the dwelling and must be shown and described on the original site plan, construction drawings, and specifications submitted for dwelling approval. Additional garage space

may be allowed for homes situated on larger homesites. No garage shall be converted into living space. No carport shall be built on any lot

5. **Ground Floor Area:** No dwelling or residence shall be permitted upon any homesite in the subdivision which does not have a ground floor area for the main structure, excluding garage, unheated or uncooled utility area and unheated or uncooled storage area of the following:

A minimum of 1,400 square feet.

6. **Building Height/Foundation:** The ARC may limit the height of houses where the ARC believes a 1½, 2, 2½ or 3 story building would violate the design of the subdivision or the privacy of the neighbors. In no event shall any structure exceed 3 stories in height (45 feet maximum). The foundation slab shall meet all regulatory requirements for building permits and a height of not less than 9 inches from the centerline of the road immediately in front of the lot.

7. **Exterior Appearance, Sidewalks and Driveways:** The exterior surface of the residence within the subdivision shall be brick or stucco or Hardie plank or any combination thereof, or other exterior application granted by the ARC, on a case review basis.

8. **Skylights:** No skylights shall be visible from the street. Any skylights must be made of glass and be Velux, Andersen or equal material. Plastic skylights are not allowed in visible locations to the road.

9. **Chimneys:** All chimneys shall not be less than 3' x 5', measured horizontally. All chimneys must be completely detailed in the drawings submitted for ARC approval to show type, style and size.

10. **Game and Play Structures:** Any fixed play structures shall be located only at the rear of the dwelling. No play structure, platform, doghouse, or playhouse shall be visible from the street, and all such structures must have the approval of the ARC prior

to installation. Design and materials of all such structures will need the approval of the ARC.

11. **Window Frames and Screening:** All frames must be compatible with and in harmony with the other exterior colors. Pool and porch screening will be required to be anodized, colored and pitched or flat, or otherwise approved by the ARC.

12. **Tree Removal:** It is the goal of the Declarant to preserve trees in excess of twelve (12) inches in diameter, if possible. For any tree that is 12 inches or more in diameter and does not reasonably interfere with or affect the building footprint for each lot, it should be replaced by the owner by planting a suitable tree on the lot.

13. **Building Materials and Temporary Buildings Related to Construction:**
No building materials or temporary building of any kind or character shall be replaced or stored on the property until the owner is ready to commence improvements. Then such materials or temporary buildings shall be placed within the property line of the lot or parcel of land upon which the improvements are to be erected and shall not be placed in the streets or between the street or property lines. No such temporary building or structure of any kind shall be used other than for construction purposes. Expressly, such temporary structure or building shall not be used for residential or sales office purposes either during construction or thereafter. It shall be removed immediately upon completion of construction or within eight (8) months after such materials or temporary building was placed thereon, whichever is sooner. Each lot during construction must maintain a dumpster and portable toilet, which are not allowed to be placed on the right-of-way at any time. NOTHING HEREIN SHALL PREVENT THE DECLARANT FROM LOCATING A TEMPORARY SALES FACILITY OR TRAILER ON THE PROPERTY UNTIL 90 DAYS AFTER THE LAST LOT HAS BEEN SOLD. ALL CONTRACTORS OF SINGLE FAMILY HOMES ARE RESPONSIBLE FOR THE MAINTENANCE AND UPKEEP OF ANY AND ALL HORIZONTAL IMPROVEMENTS OF THE

PROPERTY. CONTRACTORS AGREE TO INDEMNIFY AND HOLD HARMLESS THE DECLARANT AND HOA FOR ALL COSTS OF MAINTENANCE AND UPKEEP OF ENGINEERED AND CONSTRUCTED ROADS AND WATER RUNOFF MECHANISMS. IN THE EVENT THAT THE DECLARANT OR HOA IS REQUIRED TO REPAIR OR MAINTAIN ANY OF THESE STRUCTURES ONCE CONSTRUCTION BEGINS, BOTH SHALL HAVE THE RIGHT TO SEEK DAMAGES INCLUDING ANY COSTS TO REPAIR AS WELL AS ATTORNEY FEES AND COSTS AND DAMAGES FOR BRINGING SUCH ACTION AGAINST CONTRACTOR.

14. **Building Setback Lines:** All buildings, swimming pool, detached garage, barbecue pit, or other auxiliary structure, unless expressly permitted by the ARC, shall be located on a homesite in the subdivision in accordance with local building restrictions. Each property owner must also refer to the recorded plat to determine if a Vegetative Natural Buffer (VNB) is required. This requirement is 25 feet width of land at the rear of lot that acts as a buffer between lot and wetlands or treats stormwater before it enters wetlands or adjacent property. VNB's may not be cleared, cut, disturbed or constructed on in any manner. For the purpose of these covenants, eaves and steps shall not be considered as part of the building.

15. **Sod and Landscaping:** All Owners in the subdivision must sod their yard facing the road up to the curb, and if they own a corner lot, all areas facing a road must be sodded. Sod must be in place at the time of completion of the home. In addition, depending upon topography, side and rear yards must be sodded if necessary to prevent erosion. The Owner will preserve swales and other drainage facilities, whether provided naturally or by the Declarant or project engineer.

Except for the area in which a home, pool, road, driveway or walkway exists, the un-landscaped area of a lot must be sodded with a Floritan type grass, with no Bahia

strands of any kind, and the grass must be kept neatly mowed. Irrigation systems are required in the front, side and rear yards. All landscaping plans for each lot must be pre-approved by the ARC by express written consent.

16. **Approval of Plans for Swimming Pools, Detached Garages and Other Structures:** No swimming pool, garage, or other structure (whether or not connected to the main dwelling), shall be installed and/or constructed without the express, written approval of the ARC. Generally, above ground pools will not be approved. Additionally, none of the following, or similar structures shall be built or located on the property without the prior written approval of the ARC: club house, gazebo, and storage shed. Such approval MUST be obtained as to the proposed plans, specifications, location, construction materials and design, harmony of the design, necessity of screen planting, and any other action that might affect the desirability of the proposed structure. Said approval is subject to the restrictions contained within the applicable building codes.

17. **Fines:** As determined by the ARC, failure by the owner or contractor to comply with the provisions of this Declaration shall result in a fine payable to the ARC by the owner of said lot in the amount of \$100.00 per day for as long as the ARC determines that a violation is occurring. If owner has not paid the fines as determined by the ARC within fifteen (15) days of receipt of notice, the ARC has the right to place a lien on the property for payment of said debt.

ARTICLE V. EASEMENT AND RESTRICTIONS.

1. **Drainage/Stormwater/Utility Easement/Enforcement:** There exists easements for drainage and/or utilities as well as a conservation easement, as shown on the plat. Such easements shall inure to the benefit of all of the Owners of the lots and to the Declarant. There exist stormwater management systems, a conservation easement and wetlands as reflected on the plat, as well as related buffers. The Association shall operate and maintain any stormwater management system, and any stormwater discharge facility

exempted or permitted by the Florida Department of Environmental Protection or other state agency on the property of the Association, as well as the conservation easement and shall have all powers necessary to establish rules and regulations, assess members, and contract for services for the maintenance and operation thereof; and,

There are swales, other drainage improvements, and vegetative natural barriers installed by the Declarant to facilitate the natural flow of surface water around buildings. The existing swales and drainage improvements are easements for the entire property and are not to be disturbed by the owners of the lots on which they are located. They shall meet the dimensions as detailed in the stormwater plans and plat and shall not be filled by the homeowner at any time. Because these drainage facilities are to serve the entire property, any owner may enforce these provisions, and the Association is specifically charged with the responsibility to maintain and preserve these areas and facilities, The Agency shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to maintenance, operation and repair of the stormwater management system.

2. **Use of Property: Stormwater Management System - The Magnolia Creeks Association** shall be responsible for the maintenance, operation and repair of the stormwater management system. Maintenance of the stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the Agency. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the stormwater management system shall be as permitted, or if modified as approved by the Agency.

4. **Underground Service:** All cables, wires, or conduits necessary for the transmission of electrical power, telephone service, water and sewer service, or electrical or electronic impulses of all sorts including cable television, shall be by underground

service only, and no overhead cables or lines for such purposes shall be erected or permitted to exist upon the lots and streets of this subdivision. Telephone conduits will terminate at each individual lot line. It will then be the property owners' responsibility and expense to provide a conduit equal to the applicable communications provider's specifications for the installation of underground service into the residence. This restriction shall also apply to all services between any main structure and any outbuildings or outlying connection.

5. Other Rights Granted:

- (a) Declarant hereby grants and conveys unto itself, its successors and assigns, the non-exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair an underground electrical distribution, with all the necessary conductors, ducts, conduit, transformers, connection boxes, facilities and equipment on, along, under and across the streets, alleys, and public ways of Magnolia Creeks, in Okaloosa County Florida, according to the plat of said subdivision recorded in the Public Records of Okaloosa County, Florida for the transmission, distribution, supply and sale to the public of electric energy and for the purpose of selling and supplying electricity to the public for power, heat and light, and also the perpetual right to lay, bury, construct, operate, maintain, dig up and repair on each lot within the subdivision, for service, conduit, and facilities from the property line to the point of service for all present and future customers of itself, its successors and assigns, within said Magnolia Creeks or adjacent lands. It is intended that this installation be within the side yard easement area where practical and feasible to do so.

- (b) Declarant hereby grants and conveys unto itself, its successors and assigns, the non-exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair an underground telephone system, with all the necessary ancillary equipment thereto on, along, under and across the streets, alleys, and public ways of Magnolia Creeks, in Okaloosa County, Florida, according to the plat of said subdivision recorded in the Public Records of Okaloosa County, Florida for the transmission, distribution, supply and sale to the public of telephone services and also the perpetual right to lay, bury, construct, operate, maintain, dig up and repair on each lot within the subdivision, for service, conduit, and facilities from the property line to the point of service for all present and future customers of itself, its successors and assigns, within said Magnolia Creeks or adjacent lands. It is intended that this installation be within the side yard easement area where practical and feasible to do so.
- (c) Declarant hereby grants and conveys unto the itself, its successors and assigns, the non-exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair an underground gas distribution, with all the necessary pipes, valves, meters, facilities and equipment on, along, under and across the streets, alleys, and public ways of Magnolia Creeks, in Okaloosa County, Florida, according to the plat of said subdivision recorded in the Public Records of Okaloosa County, Florida for the distribution, supply and sale to the public of gas energy and for the purpose of selling and supplying gas to the public for heat and gas services, and also

the perpetual right to lay, bury, construct, operate, maintain, dig up and repair on each lot within the subdivision, service and facilities from the property line to the point of service for all present and future customers of itself, its successors and assigns, within or in adjacent lands to said Magnolia Creeks. It is intended that this installation be within the side yard easement area where practical and feasible to do so.

- (d) Declarant hereby grants and conveys unto the itself, its successors and assigns, the non-exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair an underground television cable system, with all the necessary ancillary thereto on, along, under and across the streets, alleys, and public ways of Magnolia Creeks, in Okaloosa County, Florida, according to the plat of said subdivision recorded in the Public Records of Okaloosa County, Florida for the transmission, distribution, supply and sale to the public of television cable services and also the perpetual right to lay, bury, construct, operate, maintain, dig up and repair on each lot within the subdivision, for service, conduit, and facilities from the property line to the point of service for all present and future customers of itself, its successors and assigns, within or adjacent to said Magnolia Creeks. It is intended that this installation be within the side yard easement area where practical and feasible to do so.
- (e) Declarant hereby grants and conveys unto the itself, its successors and assigns, the non-exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair, improve, increase,

use, connect all common areas and related access and utilizes to adjacent lands on, access and repair billboards located on the southern border of the subdivision adjacent to I-10, along, under and across the streets, alleys, and public ways of Magnolia Creeks, in Okaloosa County, Florida, according to the plat of said subdivision recorded in the Public Records of Okaloosa County, Florida as solely determined by declarant for its sole purposes also the perpetual right to lay, bury, construct, operate, maintain, dig up and repair on each lot within the subdivision, for service, conduit, and facilities from the property line to the point of service for all present and future connections to Magnolia Creeks and all billboards located adjacent to Magnolia Creeks..

- (e) The Magnolia Creeks Association shall be responsible for the maintenance, operation and repair of the water and sewer utility infrastructure system. Maintenance of the water and sewer system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other water and sewage as permitted by Okaloosa County and/or the City of Crestview. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the water and sewer system shall be as permitted, or if modified as approved by the Okaloosa County Water and Sewer Water and Sewer, or the City of Crestview. It is intended that this installation be within the side yard easement area where practical and feasible to do so. Declarant hereby grants and conveys unto the Homeowners association, its successors and assigns, the non-

exclusive perpetual right to lay, bury, construct, operate, maintain, dig up and repair any water and sewer systems, with all the necessary ancillary thereto on, along, under and across the streets, alleys, and public and private ways of Magnolia Creeks, in Okaloosa County, Florida,

ARTICLE VI. USE RESTRICTIONS & COVENANTS
RULES AND REGULATIONS.

1. **Jurisdiction of Restrictions:** These restrictions shall apply to all land described in this Declaration except for the commercial areas. Any additions to the land described in this declaration shall have the same restrictions.

2. **Parking Vehicles and Boats:** No commercial vehicles or autos, boats, construction vehicles or equipment shall remain parked on any residential lot within this subdivision unless in a garage. Travel trailers or recreational vehicles shall not be used as a permanent residence while parked on any street in the subdivision nor used as a temporary or permanent residence while parked permanently on any street in the subdivision; they may be kept on residential lots but must be screened by a fence or shrubs so that they are hidden from view from the streets or neighbors' lots. No house trailers shall be permitted to remain within the limits of this subdivision.

3. **Number of Residences:** Only one residence shall be constructed on each subdivision lot; however, this shall not prohibit construction of a single residence on two or more lots as shown on said recorded subdivision plat map, provided such tract constitutes a homesite defined as follows: parts of two or more adjoining lots facing the same street in the same block, provided the lot frontage of such homesite and of the lots from which it was

created shall not be less than the minimum frontage of lots in the same block facing the same street and the minimum square footage of such homesite shall not be less than the square footage contained in the smallest platted lot in the subdivision.

4. **Attachments:** Satellite dishes with a diameter not exceeding 19 inches may be allowed as long as the location and method of screening the device from view are approved by the ARC. No antenna, T.V. dish exceeding 19 inches in diameter, or any other communications device, whether attached to any roof or structure, or positioned on any lot or common area within the subdivision, shall be permitted.

5. **Signs:** (a) Only a sign showing name and/or address of the resident shall be displayed permanently to the public on any residential lot. Temporary signs may be placed on the property giving notice that a home is under construction.

(b) The Association shall have the absolute authority to remove and retain without notice, any sign which is prohibited, or nonconforming to the specifications provided herein. Any question of permissibility of a sign is to be resolved by the ARC.

6. **Garbage and Refuse:** No garbage, rubbish, trash, ashes, refuse, lawn clippings, grass and yard debris such as cut limbs, inoperative vehicles (that have been inoperative for more than thirty days), junk or other waste shall be thrown, or dumped on any lot, street, or alley in the subdivision or permitted to remain any such place within the subdivision governed by this Declaration. This paragraph does not prohibit lawn clippings, grass, yard debris or cut limbs from being placed on a lot temporarily for collection. All garbage shall be kept in sanitary containers, as may be prescribed by the Board of Directors of the Association and said containers shall be hidden from view except on collection days.

7. **Pets and Animals:** No person shall have, keep or maintain on any lot as defined herein any fowl or animal, domestic or otherwise, except domestic house pets; and in particular, no more than three animals (cats or dogs) or other usual domestic pets may be maintained on any one lot at any time. Birds kept as house pets in a cage are not prohibited. Such animals shall not be permitted to trespass upon the common area or another lot without the consent of such lot owner or, as to the common areas, without the consent of the Board of Directors of the Association. Such animals must be on a leash at all times when not confined. All refuse, waste or feces of the animal or animals shall be immediately retrieved and disposed. Dog pens are expressly prohibited. Violation of this requirement shall cause the imposition of such fine as the Board of Directors shall judge reasonable and shall be added to the assessment of the lot where the animal is usually kept. No farm animals, such as pot-bellied pigs or other animals that an ordinary person would consider a farm animal (including chickens), shall be kept any such place within the subdivision governed by this Declaration.

8. **Fences, Walls and Hedges:** Fences, walls, and hedges are permitted along, but inside the property lines adjoining streets, but not closer to the front or side street than the applicable setback line for the house or residence. Except that no fence or wall shall be placed further forward than the front corners of the house or residence as constructed on the lot without the express written consent of the ARC. Fences must be of uniform design in harmony with the house and the sides facing away from the lot must be finished. Generally, fences, walls, and hedges may be placed on or inside of the interior lot lines provided they do not encroach upon the adjoining lot without permission of the adjoining lot owners and also provided that such fences, walls and hedges do not interfere with the use of easements on any of the subdivision lots. No proposed fence shall be placed on any portion of any homesite at a

height of more than six and one-half (6-1/2) feet from the buildable surface. Should any fence, hedge, shrub, tree, flower or other planting be so placed, or afterwards grow so as to encroach upon the adjoining property, such encroachments shall be removed upon the request of the owner of the adjoining property. No fence or wall may be constructed, nor may a hedge be planted, until written approval is obtained from the ARC as to location, design and material to be used in the construction of said fence, wall or hedge. All requests for construction of fence shall be resolved by the authority of the ARC.

9. **Excavation:** No excavation, except such as is necessary for the construction of improvements shall be permitted, nor shall any hole of any kind be dug on the restricted land, except wells, and except swimming pools, holes for fence erection and related or similar uses.

10. **Clotheslines:** No structure or apparatus may be constructed for the outdoor drying of laundry or wash.

11. **Noxious or Offensive Activities:** No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. In addition, no noises are to be created on any lot which would offend a person of ordinary sensibilities.

12. **Motorists' Vision to Remain Unobstructed:** No structure or planting (including but not limited to a fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial) shall be placed or located on any lot if the location of same will in the sole judgment and opinion of the ARC, obstruct the vision of motorists traveling on any of the streets of the subdivision. Each owner acknowledges that the ARC shall have the right, but not the duty, to enforce these limitations of obstruction.

13. **Fuel Tanks:** No fuel tanks of any kind shall be erected, placed or permitted on any part of any lot, except small gas tanks for the operation of a barbecue grill, or a small gasoline can for lawn equipment.

14. **Lot Appearance:** The owner of each lot, whether such lot be improved or unimproved, shall keep such lot and the area between the property line of the lot and the paved surface of any abutting street free of trash and rubbish, and shall at all times keep such lot and adjacent area bordering the paved surface of a street in a neat and attractive condition. In the event the owner of any lot fails to comply, the Declarant and/or Owner's Association, shall, after giving written notice to the property owner, have the right, but not the obligation, to go upon such lot and adjacent area and remove the rubbish and any unsightly or undesirable things and objects therefrom, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain or to place the property and adjacent area in a neat and attractive condition, all at the expense of the owner of such lot. The expense shall be payable by such owner to the Declarant or ARC on demand. If owner has not paid the expenses as determined by the ARC within fifteen (15) days of receipt of notice, the ARC has the right to place a lien on the property for payment of said debt.

In addition, from and after the date of purchase of a lot until construction of a home is started, the Declarant, ARC, or the Association shall have the right to perform all maintenance on the lot, including but not limited to mowing. Each owner shall be assessed a fee payable for each year following the date the lot owner acquires title to the lot, if the Association maintains any lot pursuant to this paragraph.

15. **Mailboxes:** All mailboxes, if allowed, in Magnolia Creeks will be of the same design and material, as approved by the ARC. Homesite owners shall purchase this specific mailbox (customized to each address number) from the vendor contracted by the ARC. All U.S. Postal mail must be delivered via a mail kiosk.

16. **No Reverter of Title:** In no event and under no circumstances shall a violation of any covenant or restriction herein contained work a forfeiture or reverter of title.

17. **Single Family Use Only:** Such residential lots, and each and every one thereof, are for single family residential purposes only (excludes commercial areas retained by Developer). No building or structure intended for or adapted to business purposes, and no apartment house, lodging house, rooming house, hospital, sanitorium, doctor's office, or other professional or office type structure shall be placed, permitted or maintained on such premises or on any part thereof. No improvements or structure whatsoever, except as are specifically permitted herein, shall be constructed or maintained, except common areas may have approved structures.

18. **Additional Restrictions:** Declarant, its successors and assigns or its designated representative, may make other restrictions applicable to each homesite by appropriate provision in the contract for deed or in any deed without otherwise modifying the general plan herein outlined, and such other restrictions shall inure to the benefit of other owners of home sites in the subdivision and shall bind the grantees and their respective heirs, successors, or transferees in the same manner as though they have been expressed herein.

19. **Resubdividing:** No lot shall be resubdivided.

20. **Aesthetics:** The owners and/or occupants of each dwelling and lot shall keep all structures on said lot neat and attractive, and shall perform such maintenance both interior and exterior, as may be reasonably necessary to protect the value of neighboring property. If any owner and/or occupant of a dwelling fails to keep said lot neat and attractive, the Declarant or the ARC has the right to take any steps necessary to correct the problem, up to and including, hiring a company to bring the lot up to the standard set forth in the Declaration, at the expense of the owner. The ARC shall have sole discretion in making determinations pursuant to this paragraph.

21. **Paved Driveways:** Each owner of a lot in the subdivision shall be required to construct a paved driveway from the garage to the street. In no event shall gravel or shell type materials be permitted for such paving or for use as a ground cover on any portion of the front yard on any lot in the subdivision.

22. **Casualty Damage:** In the event of damage or destruction by fire or other casualty to any improvements located on the property, the Owner of such improvements shall repair or rebuild such damaged or destroyed improvements in a good and workmanlike manner, or shall clear and remove all debris, foundation and other materials, and return the lot to its natural state, within a reasonable time not to exceed one (1) year and in accordance with the provisions of these covenants.

23. **Violations:** The Declarant at all times, or the owners of two-thirds (2/3) of the lots which shall then be subject to this Declaration after the Declarant no longer owns any lot, shall have the right to waive any violation or vary any provision of these covenants. No such waiver or variance shall be construed to permit waiver of any other covenant herein or change the general scheme of development of the subdivision.

ARTICLE VII. GENERAL PROVISIONS:

1. **Enforcement:** The “Association”, the “Declarant” or “Owner” shall have the right to enforce, by any proceeding at law or in equity, all terms and provisions of this Declaration. Failure by the Association, the Declarant or of any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. **Litigation:** In the event of litigation to enforce any of the terms of this Declaration, the successful party shall be entitled to recover reasonable attorney fees and court costs from the unsuccessful party in such litigation. This includes contractors of homes that are required to maintain and repair infrastructure during the vertical construction phases.

3. **Declarant's Authority to Amend:** Declarant may unilaterally alter, change or revise these covenants and restrictions to enhance the development until such time as the Declarant no longer owns a lot in the property. Thereafter the Association shall succeed the Declarant and shall have the right to make such amendments.

4. **Builders Fine:** The Declarant may fine any person or contractor who uses any product or negligence in relation to any drainage systems or horizontal improvements. The amount of the fine shall be the approximate amount of the cost of repair to the drainage system to be estimated by the Declarant, plus 25% and all attorney fees and costs..

5. **Financial Statements:** The Association shall make available to owners, and lenders and holders, insurers or guarantors of first mortgages, current copies of the Declaration, By-Laws and those rules concerning the subdivision, and the books, records and

financial statements of the Association, upon request during normal business hours, or under other reasonable circumstances.

6. **Liability of the ARC, its Members and Declarant:** The Declarant has sought by the Declaration to assure the long-term value and desirability of this subdivision. Declarant, the ARC, and the individual members of the ARC will continue to exercise its judgment consistent with the purposes of these terms, conditions and covenants. However, neither the Declarant nor any member of the ARC will have liability for failure to assure or provide for the safety of any owner or guest by virtue of any discretionary decision or design allowed or made by the Declarant, the ARC, or by any member of the ARC.

7. **Construction Conditions:** Each lot owner shall be responsible for requiring that a protective silt fencing material (filter cloth or hay bales where appropriate) be erected and continuously maintained during construction along each boundary of their lot which adjoins a paved roadway and/or a wetlands or retention area in the subdivision. The owner of each lot shall be responsible for the clean-up and removal of any soil, construction debris or other litter of any kind, which is deposited by any means whatsoever in or on any paved roadway and/or a wetlands or retention area in the subdivision which is generated from their lot.

8. **Completion of Construction and Construction Time Limit:** The declarant and each lot owner recognize and agree that the sale of residential lot(s) within Magnolia Creeks are intended to provide mutual and reciprocal benefit of each and every residential lot in the Subdivision, a mutual and reciprocal benefit for community development and discourage speculation which results in empty lots, and are intended to create a privity of contract and estate between grantees of said lot(s), their heirs, successors or assigns, operated as covenants

running with the land for the benefit of each and all other lots within the subdivision and their respective owners.

9. **Amendment:** Except as provided under this Article VII Section 3, the terms of the Declaration may be amended only by an instrument executed by not less than one-half ($\frac{1}{2}$) of the owners as defined herein, or by the Declarant or its designee. Any such amendment must be recorded. Notwithstanding anything to the contrary, the Declaration shall not be subject to amendment without the written recorded consent of the Declarant, or its successors, so long as the Declarant owns any lot in Magnolia Creeks. If any conflict arises between the Declarant's amendments and those of the owners, the Declarant's amendments will prevail. Any amendment, however, that alters the stormwater management system, beyond maintenance in its original condition, including mitigation or preservation areas and the water management portion of the common areas, must have prior approval of the Agency.

11. **Applicability of Covenants and Restrictions:** This Declaration shall run with the land described in the plat of Magnolia Creeks, and such covenants and restrictions shall become part of all deeds, contracts or conveyances of any "lot" which are subject to this Declaration and shall be binding on all parties and persons obtaining title to such lots or such persons who claim under the owners of such lot until January 1, 2049, at which time such covenants and restrictions in this Article shall be automatically extended for successive additional ten (10) year periods unless terminated by written agreement of two-thirds ($\frac{2}{3}$) of then record owners of such lots subject to this Declaration, which agreements must be recorded before the beginning of the next applicable ten (10) year extension.

12. **Annexation of Additional Property:** The Declarant specifically reserves the right to add additional property to that which is included Magnolia Creeks. If such property is added, the term "Property" herein shall be construed to mean the property specifically described in this Declaration, and such additional properties as may be described in future amendments to this Declaration. The Declarant reserves the right to add to the membership in this Association the owners of lots within the additional properties.

13. **Invalidation:** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set their hands and seals to be affixed hereto this 2 day of Feb. 2023.

DECLARANT:

By: [Signature]
Magnolia Creeks LLC
By: Richard S. Johnson, officer

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization this 2 day of Feb., 2023, By Richard Johnson who is () personally known to me or who has () produced _____ as identification and who did not take an oath.



[Signature]
Notary Public for the State of Florida
My commission expires: 8-18-25

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 3 NORTH, RANGE 23 WEST, CITY OF CRESTVIEW, OKALOOSA COUNTY, FLORIDA, LYING NORTH OF INTERSTATE HIGHWAY 10, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE CONCRETE MONUMENT (L.B. #3501) MARKING THE NORTHEAST CORNER OF THE AFORESAID SOUTHWEST QUARTER OF SECTION 28 AS DENOTED ON THE RECORD PLAT OF STEEPLECHASE PHASE THREE (PLAT BOOK 17, PAGE 52); THENCE S 02°04'25" W ALONG THE EAST LINE OF SAID QUARTER, A DISTANCE OF 717.52 FEET; THENCE DEPARTING SAID EAST LINE, PROCEED S 89°44'11" W, A DISTANCE OF 131.47 FEET; THENCE S 00°15'49" E, A DISTANCE OF 59.99 FEET; THENCE N 88°30'13" W, A DISTANCE OF 203.58 FEET TO A POINT ON A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 115.00 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 28°09'38", AN ARC DISTANCE OF 56.52 FEET, (CHORD BEARING = S 77°16'08" W, CHORD = 55.95 FEET); THENCE S 01°29'47" W, A DISTANCE OF 1.25 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD 8 (INTERSTATE HIGHWAY 10 - RIGHT-OF-WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) CALLS:

(1) N 88°30'13" W, A DISTANCE OF 66.63 FEET TO A POINT ON A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 11639.20 FEET;

(2) ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 03°19'08", AN ARC DISTANCE OF 674.19 FEET, (CHORD BEARING = S 88°02'39" W, CHORD = 674.10 FEET);

THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED N 02°08'35" E, A DISTANCE OF 140.40 FEET TO A POINT ON A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 265.40 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°33'06", AN ARC DISTANCE OF 90.56 FEET, (CHORD BEARING = N 65°34'57" E, CHORD = 90.13 FEET); THENCE N 40°58'30" E, A DISTANCE OF 27.49 FEET; THENCE N 49°01'30" W, A DISTANCE OF 15.15 FEET TO A POINT ON A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 175.00 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°39'40", AN ARC DISTANCE OF 90.59 FEET, (CHORD BEARING = N 23°44'18" E, CHORD = 89.59 FEET); THENCE N 44°13'04" W, A DISTANCE OF 32.88 FEET; THENCE N 88°39'03" W, A DISTANCE OF 29.50 FEET TO A POINT ON A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 120.50 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 27°46'32", AN ARC DISTANCE OF 58.42 FEET, (CHORD BEARING = S 15°14'14" W, CHORD = 57.85 FEET); THENCE N 88°39'03" W, A DISTANCE OF 138.32 FEET; THENCE N 01°20'57" E, A DISTANCE OF 574.96 FEET TO THE NORTH LINE OF THE AFORESAID SOUTHWEST QUARTER; THENCE S 88°36'32" E ALONG SAID NORTH LINE, A DISTANCE OF 1218.35 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 21.40 ACRES, MORE OR LESS.

