

012827

APR 04 2008

COUNTY CLERK JOHNSON COUNTY
BY LB 1980
BONS AND

REPLACEMENT DEDICATION AND DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE BURLESON MAGNOLIA FARMS HOMEOWNERS ASSOCIATION, INC.

THE STATE OF TEXAS §
COUNTY OF JOHNSON §

THIS REPLACEMENT DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
("Declaration") is made in Johnson County, Texas by the Board of Directors of The Burleson Magnolia Farms
Homeowners Association, Inc. (the "Association") f/n/a Magnolia Farms Homeowners Association, Inc. and
approved and adopted by all Members and Owners of the property the subject of this Declaration and for the benefit
of the Members of the Association and the Owners of the property the subject of this Declaration ("Declarants").

This Declaration is a replacement, codification and amendment of the Dedication and Declaration of Covenants, Conditions and Restrictions filed on or about October 8, 1997 in the Deed Records of Tarrant County, Texas;¹ First Amended Declarations filed on or about June 26, 1998 recorded in Volume 2201, Page 951, Deed Records, Johnson County, Texas; the Second Amended Declarations filed on or about December 7, 2005 recorded in Volume 3685, Page 0742, Deed Records, Johnson County, Texas; and the Third Amended Declarations filed on or about October 16, 2006 recorded in Volume 3925, Page 0807, Deed Records, Johnson County, Texas ("Replaced Restrictions"). Upon execution of this document by the executing parties, the Replaced Restrictions are repealed and terminated and of no further force and effect, and binding upon the executing parties, their heirs, executors and assigns, including all subsequent Members and Owners of the property the subject of this Declaration. This Declaration shall run with and burden the land the subject herein.

RECITALS

1. Declarants are the owners of real property in the Magnolia Farms Subdivision located in JOHNSON COUNTY, Texas and are Members of The Burleson Magnolia Farms Homeowner Association, Inc. The Burleson Magnolia Farms Subdivision is described by the Final Plat Showing, Lot 1 thru 16, Block 1, Magnolia Farms, A Subdivision of a Portion of the H.C. Renfro Survey, Abs. 738, Johnson County, Texas and as described in metes and bounds on said Final Plat filed in the Deed Records of Johnson County, Texas on or about June 3, 1998, Volume 8, Page 429, and as approved by the City of Burleson on or about May 19, 1998 and by the Commissioners Court on or about April 13, 1998, said Final Plat being incorporated herein by reference for all intents and purposes (the "Property").
2. Declarants have revised the Covenants, Conditions, and Restrictions in whole to better reflect the changes in the Association since the conversion from management under the developer and original Declarant John Volkman to current status of completed subdivision with residents.
3. This general revision will benefit the Property in general, the parcels and lots that constitute the property, Declarants, and each successive owner of an interest in the Property.
4. Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, Declarants desire to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this general revision

NOW, THEREFORE, it is declared that all of the Association and its members and those who benefit from recorded easements granting access to the Association from their real property, shall be held, sold, and conveyed subject to the following amendment to the easements, restrictions, covenants, and conditions.

¹ The original restrictions the subject of the property referenced herein were mistakenly filed in Tarrant County instead of Johnson County, thus, among other reasons, necessitating subsequent filings, including this Declaration.

ARTICLE I **DEFINITIONS**

1. The following words, when used in this Declaration or any amendment or supplement hereto (unless the context shall otherwise indicate or prohibit) shall have the following meanings:
 - (a) "Plat" shall mean and refer to that certain Plat recorded on June 3, 1998 in Volume 8, Page 429, Plat Records. Johnson County, Texas and as such Plat may therefore be amended.
 - (b) "Lot" shall mean and refer to any of the plots of land shown on the Plat on which there is or will be built a single-family dwelling. The term "Lot" does not include the Common Properties (as hereinafter defined).
 - (c) "Owner" shall mean and refer to the record owner or owners of the fee simple title to any Lot or portion of a Lot in the Property on which there is or will be built a single-family dwelling. "Owner" includes contract sellers but excludes persons having only a security interest in such Lot or portion thereof.
 - (d) "Common Properties" shall mean and refer to any and all areas of land within the Property which are known or described as a private street on any recorded subdivision plat of the Property, or intended for, or devoted to common use and enjoyment of the Members of the Association together with any and all improvements that are now or may hereafter be constructed or installed thereon.
 - (e) "Association" shall mean and refer to an incorporated, non-profit association known as The Burleson Magnolia Farms Homeowners Association, Inc. ("BMFHOA") or such other name as may be desired or needed, consisting of all Owners of Property shown on the Plat, which shall have the power, duty, and responsibility of maintaining, operating, and managing the Common Properties, and collecting the assessments and charges hereinafter prescribed, and has the right of administering and enforcing the Covenants and Restrictions, as provided in this Declaration.
 - (f) "Member" shall mean and refer to each Owner of the fee simple title to any Lot or portion of a Lot in the Property without any further documentation or any kind.
 - (g) "Board" shall mean and refer to the Board of Directors of the Association.
 - (g) "Architectural Control Committee" shall mean and refer to a group of qualified persons consisting of not less than three (3) members, nor more than five (5) members, which shall serve pursuant to Article X hereof.

ARTICLE II **PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO**

2. Additions to Existing Property. Additional land(s) may become subject to this Declaration in any of the following manners:
 - (a) The Association may add or annex additional real property to the scheme of this Declaration by filing of record a Supplemental Declaration of Covenants, Conditions, and Restrictions which shall extend the scheme of the covenants, conditions, and restrictions of this Declaration to such property provided however that such Supplemental Declaration may contain such complementary additions and modifications of the Replaced Restrictions as may be necessary to reflect the different

character, if any of the added properties and as are not inconsistent with the concept of this Declaration.

- (b) In the event any person or entity other than Association desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of the majority of the votes from the members of the Association.
- (c) The Association, at its sole discretion, retains the right to subdivide or replat any unsold Lots it owns within the parameters of the specification and requirements set forth by Johnson County or any other governmental entity whose authority is required.

ARTICLE III **MEMBERSHIP AND VOTING RIGHTS**

- 3.01 **Membership.** Every Owner of a lot shall automatically be and must remain a Member of the Association in good standing. The Board of Directors may declare that an Owner is not a Member in good standing because of Deed Restriction violations, past unpaid dues, fines, late charges, interest, legal fees, and/or any other assessments of any nature. The Board of Directors may temporarily suspend the voting rights of any Member who is not in good standing until such past unpaid amounts are paid in full.
- 3.02 **Voting Class.** The Association shall have one voting class of Members. Each Member shall be entitled to one (1) vote for each Lot in which such Member holds the interest required for membership. When more than one person holds interest or interests in any Lot all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine but in no event shall more than one (1) vote be cast with respect to any such Lot.
- 3.03 **Quorum Notice and Voting Requirements.** The quorum notice and voting requirements of and pertaining to the Association are set forth within the Articles of Incorporation and Bylaws of the Association as the same may be amended from time to time, subject to the provisions of Section 3.02 above, any action by or on behalf of the Association may be taken with assent giving in writing. The notice for Quorum majority according the filed Articles of Incorporation, charter 01568795 with the Secretary of the State of Texas effective February 8, 2000 is two-thirds of the Members.
- 3.04 **Election of Board and Architectural Control Committee.** The Board and Architectural Control Committee shall be elected by BMFHOA Members in a specified Election Meeting. Majority vote by two-thirds of the BMFHOA will be required for election to these positions. The acting President of the BMFHOA will make written announcement of the Election Date to the Members. Election Day announcements may be through Certified US Mail, Facsimile receipt, Electronic Mail with Return Receipt verification, or hand written acceptance by said Member. Announcements must be no less than two (2) weeks prior to an Election Date and no more than forty-five (45) days out. Nominations for positions are to be submitted in writing by the interested candidate or by another Member to the President of the BMFHOA on or before the Election Date. Members are responsible to make Election Date Meetings. If all Members are not present for the Election Date Meeting, then two-thirds of the Membership will constitute a quorum and a vote can proceed. Without a two-thirds Membership quorum, an election cannot be held.
- 3.05 **Terms of Board Members and the Architectural Control Committee.** The term for any elected position will be limited to two (2) years. Elected Members may run for reelection. In the event that an Election Date cannot be held due to a lack of required attendees to vote, then the elected positions may continue for another two (2) year term.

3.06 Removal of Board Members. Any Lot Owner, in singular or in plurality, may petition for removal of any single Board Member or the Board in its entirety. A Special Election Date will be required to carry out this action. Lot Owner(s) will be responsible for delivery to all BMFHOA Members petition for removal with specification of said Board Member for removal and the basis for such removal. Lot Owner will notify BMFHOA President in writing upon final delivery and confirmation of submission to all BMFHOA Members. Confirmation may include Certified US Mail, copies of facsimile transmission, verification of return receipt through electronic mail, or a hand written acceptance by each Member upon delivery by Lot Owner Applicant. Election Date procedures as outlined in 3.04 will be followed to set said date. A Silent Vote will be taken in writing on the Election Date and said results will be given the President of the BMFHOA for tally. Should the President not be able to fulfill his duty, then the Board VP and successive Officers will step in to receive and tally votes. A non- Board or ACC Member will also certify the results of the vote. Seventy-five (75) percent of BMFHOA Members must approve by written vote to remove the Board in whole or in part.

ARTICLE IV **GENERAL POWERS AND DUTIES--OF BOARD OF DIRECTORS**

4.01 Powers and Duties. Its Board of Directors shall conduct the affairs of the Association. The Board shall be selected in accordance with Articles of Incorporation and Bylaws of the Association.

4.02 Use of Maintenance Funds. The Board, for the benefit of the Common Properties and the Owners, shall provide, and shall payout of the maintenance fund(s) provided for in Article VI below, the following:

- (a) Care and preservation of the Common Properties and the furnishing and upkeep of any desired personal property for use in the Common Properties;
- (b) Any private trash and garbage collection service and security arrangements;
- (c) The services of person or firm (including Declarants and any affiliates of Declarants) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by a manager designated by the Board;
- (d) Legal and accounting services;
- (e) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alteration, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion should be necessary or proper for the operation or protection of the Association or for enforcement of this Declaration.

4.03 Additional Responsibilities of Board. The Board shall have the following additional rights, powers and duties:

- (a) To execute all declarations ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;
- (b) To enter into agreements or contracts with insurance companies, taxing authorities and the holders of first mortgage liens on the individual Lots with respect to: (i) taxes on the Common Properties, (ii) insurance coverage (if any) on Common Properties, as they relate to the assessment, collection

and disbursement process envisioned by Article V herein; and (iii) utility installation, consumption and service matters;

- (c) To enter into contracts, maintain one or more bank accounts, and generally, to have all of the powers necessary or incidental to the operation and management of the Association;
- (d) To protect or defend the Common Properties from loss or damage by suit or otherwise to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements;
- (e) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time.
- (f) To make available to each Owner within ninety (90) days after the end of each year the annual report;
- (g) Pursuant to Article VII herein, to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, assess the Members in proportionate amounts to cover the deficiency;
- (h) To enforce the provisions of this Declaration and any rules made hereafter and to fine, enjoin and/or seek damages from any Owner for violation of such provisions or rules;
- (i) To acquire (by gift purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise, and dispose of real and/or personal property in connection with the affairs of the Association;
- (j) To borrow money and with the consent of two-thirds of Membership, to mortgage, pledge, deed (in trust), or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (k) To dedicate sell or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions, as may be agreed to by the Members provided that any such dedication, sale, or transfer shall be effective only when such instruments or instruments have been signed by two-thirds of the Membership agreeing to such transaction(s);
- (l) To participate in merger and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and common properties provided any such merger consolidation or annexation shall have the consent of two-thirds of the Membership;
- (m) To have and exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Act of the State of Texas may now or hereafter have or exercise.

4.04 **Board Powers Exclusive.** The Board shall have the exclusive right to contract for all goods, services, and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein. In the event or if any reason the Board is not deemed authorized to act for and on behalf of the Association and the Members, then Declarants may exercise their power and authority under Section 11.02 hereof to act for and on behalf of the each Owner's individual property rights.

4.05 **Contracts With Owners.** The Board, on behalf of the Association, shall have full power and authority to contract with any Owner for the performance, on behalf of the Association, of services which the Board is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

4.06 **Liability Limitations.** Neither any Member, the Board, any Director, nor any Office of the Association shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of another Member, whether such other Member was acting on behalf of the Association or otherwise. The Members, the Association, its Directors, Officers, agents nor employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements, or portion thereof or for failure to repair or maintain the same. Members, The Association or any other person, firm, or corporation liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements, or portion thereof.

4.07 **Reserve Funds.** The Board may establish reserve funds, which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and not income to the Association.

4.08 **Objection to Board Decisions or Actions By Lot Owners.** Should any Lot Owner, in singular or by plurality, become dissatisfied with the decisions or actions taken by the Board in the administration of their duties, said Lot Owner(s) may petition for reversal or override of said decision or action. Said Lot Owner(s) will be responsible for delivery to all BMFHOA Members petition for reversal or override. Lot Owner(s) will notify BMFHOA President in writing upon final delivery and confirmation of submission to all BMFHOA Members. Confirmation may include Certified US Mail, copies of facsimile transmission, verification of return receipt through electronic mail, or a hand written acceptance by each Member upon delivery by Lot Owner Applicant. Petition for reversal or override of any specific Board decision or action to all BMFHOA Members will be limited to no more than thirty (30) days after said Board decision or action. Responses from BMFHOA Members must be in writing and delivered to the President of the BMFHOA and will be limited to ten (10) days after confirmation of receipt of petition by said Lot Owner(s). Seventy-five (75) percent of BMFHOA Members must concur with the petition to reverse or override the Board decision or action.

ARTICLE V PROPERTY RIGHTS IN THE COMMON PROPERTY

5.01 **Member's Easements of Enjoyment.** Every Member and every tenant for every Member who resides on a Lot, and each individual who resides with either of them on such Lot shall have a right and easement of use, recreation, and enjoyment in and to the Common Properties and such easement shall be appurtenant to and said easement shall not give such person the right to make alterations, additions, or improvements to the Common Properties;

5.02 **Extent of Member's Easements.** The rights and easement of use, recreation, and enjoyment created hereby shall be subject to the following:

(a) The right of Declarants, or the Association to prescribe reasonable regulations and policies governing, to charge fees and or deposits related to the use, operation and maintenance of the Common Properties;

- (b) Liens on mortgages placed against all or portion of the Common Properties with respect to monies borrowed by the Association to improve and maintain the Common Properties;
- (c) The right of Association to enter into and execute contracts with any party for the purpose of providing maintenance or other such material or services consistent with the purposes of the Association;
- (d) The right of the Declarants or the Association to take such steps as are reasonable and necessary to protect the Common Properties against foreclosure
- (e) The right of the Association to suspend the voting right of any Member and to suspend the right of any individual to use or enjoy any of the Common Properties for any period during which any assessment (including without limitation "fines") against a Lot resided upon by any such individual remains unpaid, and for any period deemed reasonable by the Association for an infraction of the then-existing rules and regulations.
- (f) The right of the Association to enter into and execute contracts with owner operators of any community antenna television system (CATV), Broadband Internet provider, Satellite Signal provider, or any other similar operations for the purpose of extending said services on, over, or under the Common Properties to ultimately provide said services to one or more Lots.

ARTICLE VI **COVENANTS FOR ASSESSMENTS**

6.01 Personal Obligation of Assessments. Each Owner of a Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed, as a part of the purchase money consideration for such deed and conveyance, to covenant and agree to pay the Association (or to an independent entity or agency which may be designated by the Association to receive such monies):

- (a) Regular assessment or charges for maintenance, taxes, and insurance on portions of the Properties and the Common Properties (including, without limitation, those matters described within Section 4.01 herein);
- (b) Special group assessments for capital improvements or unusual or emergency matters, such assessments to be fixed, established, collected from time to time as hereinafter provided;
- (c) Special individual assessments levied against individual Owners to reimburse the Association for extra costs for maintenance and repairs caused by willful or negligent acts of the individual Owner and not caused by ordinary wear and tear;
- (d) Individual assessments and fines levied against individual Owners for violations of rules and regulations pertaining to the Association or the Common Properties. Such assessment amount to be determined and set by the Board;
- (e) All such assessments, together with late charges, interest, and cost of collection thereof as hereinafter provided, shall be a charge on the land and improvements and shall be a continuing lien upon each Lot against which each such assessment is made and shall also be the continuing personal obligation of the then-existing Owner of such Lot at the time which the assessment fell due.

6.02 Creation of Lien. The Association and/or Declarants, in the event the Association were deemed unauthorized by a legal body in the State of Texas to enforce this section, hereby reserves a vendor's lien against each Lot

to secure the payment of any assessment which may be levied pursuant to the terms and provisions of Sections 6.05, 6.06, and 9.07 hereof, and the expenses incurred in connection with the enforcement thereof, including, without limitation, interest at the maximum rate permitted by law, costs and attorney's fees. Such lien may be enforced by appropriate judicial proceedings and the amounts secured thereby shall be the obligation of and chargeable to Owner. Such lien shall be subordinate and inferior to the following: (i) assessments, liens, and charges in favor of the State of Texas for taxes past due and unpaid on the Lot; and (ii) amounts due under any first lien deed of trust duly recorded prior to the recordation of any lien assessment as provided in Section 6.03.

6.03 Assessment Lien.

- (a) All sums assed but unpaid, including interest thereon at the maximum rate permitted by law from the date such assessments are due until said assessments are paid (subject to the provisions hereof limiting the interest contracted for, charged or received to the maximum permitted by applicable law) shall constitute a lien on the Lot superior to all other liens and encumbrances, except as provided in Section 6.02. The Board or duly appointed agent may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner(s) and a description of the Lot and any other information required by applicable law. Such notice shall be signed by the Board or its duly appointed agent and may be recorded in the office of the County Clerk of Johnson County, Texas. Such lien may be enforced by the foreclosure of it upon the Lot by the Board or its duly appointed agent. In any such proceeding, the owner shall be required to pay costs, expense and attorney fees incurred in the connection with any such foreclosure proceeding. The Board or its duly appointed agent shall have the power to bid on the Lot at foreclosure or other legal sale to acquire and hold, lease, sell, or transfer any such Lot it may acquire. Any mortgagee holding a lien on the Lot may pay, but shall not be required to pay, any unpaid assessments owing with respect to the Lot, but such payment shall not be deemed a waiver of Owner's default by either the Board or such mortgagee.
- (b) The amount of the assessment assesses against the Lot shall also be a personal obligation or indebtedness to the Owner thereof at the time of assessment is made. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same.
- (c) Owner, by acceptance of the deed to the Property, hereby expressly vests in the Board or its agents the right and power to bring all actions against Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessment provided herein by non-use of the Common Properties or abandonment of his lot.
- (d) If assessment remains unpaid at the expiration of fifteen (15) calendar days, from and after the due date by the Board, a late charge shall be assessed against the non-paying Owner for each day that any portion remains unpaid. The late charge will be in the amount of \$3.00 per day. A \$30 insufficient funds charge may be applied for each check returned. All late fees and service charges may be adjusted from time to time as deemed necessary by the Board.

6.04 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purposes of;

- (a) Promoting the health, recreation, safety, and welfare of the residents of the Property;
- (b) Payment of taxes and insurance on the Common Properties and the repair, replacement, and additions thereto;
- (c) Payment for electricity for Common Properties;
- (d) Trash and garbage collection;
- (e) Security arrangements as may be deemed necessary and appropriate by the Association;
- (f) Paying the cost of labor, equipment or leases of equipment thereof, and materials required for the maintenance of the Common Properties;
- (g) Carrying out of Board duties;

(h) Carrying out of various matters set forth or envisioned herein or in any amendment or supplemental hereto.

6.05 Basis and Amount of Regular Maintenance Assessments.
(a) Until and unless otherwise determined by the Board, the maximum regular maintenance assessments shall be \$50 per Lot per month.
(b) The Board may establish the maximum annual assessment for each Lot, provided that the maximum annual assessment may not be increased more than 30% above the maximum annual assessment for the previous year unless otherwise approved by a majority of the Membership of the Association.
(c) After consideration of current maintenance costs and the future need of the Association, the Board may fix the actual annual assessment at an amount equal to or less than the then-existing maximum annual assessment.
(d) The Board may establish a time-price differential schedule for the payment of the regular assessment in which the lowest amount is the actual regular base assessment.
(e) Maintenance assessments extend to property owners outside the Association and the Magnolia Farms Subdivision who benefit from recorded easements granting access to the Association from their real property.

6.06 Special Assessment for Capital Improvements. In addition to the regular assessments authorized by Section 6.03 hereof, the Association may levy in any fiscal year a special assessment, applicable to the year only, for the purposes of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including any necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds of the Membership.

6.07 Uniform Rate of Annual and Special Assessments. Both regular and special capital assessments must be fixed at a uniform rate and special capital assessments must be fixed at a uniform rate for all Lots owned. Each owned by a Member shall be charged with 100% of the established per Lot assessment.

6.08 Date of Commencement of Assessment, Due Dates. The Board may prescribe from time to time that the regular base assessments are to be collected on an annual, semi-annual, quarterly, or monthly basis. Accordingly, the Board shall prescribe the appropriate due dates. All regular base assessments shall be collected in advance. The due date or due dates (if it is to be paid in installments) of any other assessment or special assessment under Section 6.05 and 6.06 hereof, shall be fixed in the respective resolution authorizing such assessment.

6.09 Duties of the Board with Respect to Assessments.
(a) In the event of a revision to the amount of rate of the regular base assessment, or establishment of a special group or special individual assessment, the Board shall fix the amount of the base assessment against each Lot, and the applicable due date for each assessment, at least sixty (60) days in advance of such date or period, and Board shall, at that time, prepare a roster of the Lots and assessment applicable thereto which shall be kept in the office of the Association
(b) Written notice of the assessment shall thereupon be delivered or mailed to every Owner subject thereto.
(c) The Board shall upon demand at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an Officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. The Board for the issuance of such certificate may make a reasonable charge.

ARTICLE VII
INSURANCE, REPAIR AND RESTORATION, SECURITY ARRANGEMENTS

7.01. **Right to Purchase Insurance.** The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, any improvements thereon or appurtenant thereto, for the interest of the Association and all Members thereof, in such endorsements and will such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and uses to the subject property. Such insurance may include, but need not be limited to:

- (a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount, which shall be equal to the maximum insurable replacement value, excluding foundation and excavation, costs as determined annually by the insurance carrier;
- (b) Public liability, premises liability, and property damage insurance on such forth and in such amount as the Board may choose;
- (c) Fidelity bond for all officers and employees of the Association having control over the receipt or disbursement of funds; and
- (d) Officers and directors liability insurance.

7.02. **Insurance Proceeds.** The Association and the Members shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article VII, remaining after satisfactory completion of repairs and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties.

7.03. **Insufficient Proceeds.** If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article VI of this Declaration to cover the deficiency.

7.04. **Security Arrangements.** Each Owner expressly understands, covenants and agrees with the Association that:

- (a) The Association has no responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner,
- (b) Each owner shall be responsible for consulting with reputable insurance industry representative of each Owner's own selection to select, purchase, obtain and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner covering his or her real and personal property;
- (c) Each owner releases and holds the Association harmless from any uninsured liability claims, causes of action or damages or any kind of character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the security system and the private street within the Property, including, without limitation: (i) The interviewing, hiring, training, licensing, bonding and employment of security personnel; (ii) The instructions, directions and guidelines issued to or by the security personnel; and
- (d) Each Owner will cooperate with Declarant, the Association and the Architectural Control Committee in connection with the establishment, evolution and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within the property and abide by any and all rules and regulations of the Association, as adopted and promulgated from time to time, related to the entry upon and use of the privileged steel and other common areas within the Property

ARTICLE VIII
USE OF COMMON PROPERTIES AND VENDOR INSURANCE REGULATIONS

8.01 **Restrictive Action by Members.** No Members shall permit anything to be done on or in the Common Properties which would violate any applicable public law or zoning ordinance, which will result in the cancellation of or increase of any insurance carried by the Association, or which would be in violation of any law or any rule or regulation promulgated by the Board.

8.02 **Damage to the Common Properties.** Each member shall be liable to the Association for any damage to any portion of the Common Properties caused by the negligence or willful misconduct of the Member or his family and guests.

8.03 **Rules of the Board.** All Members shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and a member determined to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorney's fees.

8.04 **Use of Common Properties.** Use of the Common Properties shall be limited to Members, their families and guests. With the exception of the regular business activities of Members or the Association, no person or entity shall use any portion of the Common Properties to: (a) Solicit, promote or conduct business, religious, political or propaganda matters; (b) Distribute handbills, newsletters, flyers, circular or other printed materials without the prior written consent of the Association (which consent may be withheld in its sole and absolute discretion).

8.05 **Private Street.** The entry gate and street within Magnolia Farms residential community are "private" and constitute a portion of the Common Properties, which are subject to the jurisdiction and administration by the Association. In addition to other provisions appearing within this Article, the Board is specifically authorized to recommend, adopt, implement and enforce rules, regulations, mechanisms and procedures governing use of the entry gatehouse, sidewalks, and street covering items such as (but not necessarily limited to):

- (a) Identification and entry programs for Members, their respective immediate families, their guests and vehicles owned or driven by any of them;
- (b) Speed limits, designated parking areas, restricted parking areas and no-parking areas;
- (c) Signs and graphics to provide announcements to unauthorized personnel, concerning potential criminal trespass matters;
- (d) A "fines" system through which the Association can levy and collect fines from its Members for violations of the applicable rules and regulations;
- (e) Disclaimers of liability for all matters or occurrences on or related to the Common Property;
- (f) "Garage Sales" require Board notification and approval prior to sale advertising and event;
- (g) Large social events or parties that could congest traffic flow within the Association or impede on other Members property access require notification and coordination with impacted Members to prevent issues between such Members; Any damage to other Members property by the Host Member is the liability and responsibility of said Host Member, as such, Host Member will bear any and all repair costs to damaged Members property.

8.06 **Insurance Regulation Concerning Vendors Conducting Business In The Association.** To promote the use of reputable vendors and protect the Association and its Members from unnecessary liability, the following regulations apply:

- (a) Vendors will be required to provide proof of Automobile insurance coverage for Association protection against any casualty or property damage caused by such vendor. Such proof will come either in the form of an insurance company declaration page showing the named Vendor, insuring company name, policy number, and period of coverage or AACORD certificate of insurance from the Vendor showing the same information as the insurance company declaration page would provide. All documentation is subject to verification.
- (b) For Vendors who enter BMFHOA on a recurring or contract basis (lawn care, pest control, construction project), the BMFHOA resident procuring the Vendor will be required to collect the required documentation and forward said documentation to the President of the Board or its duly appointed Board member.
- (c) For Vendors who enter BMFHOA on a "on call" basis (single trip repair, estimate, etc), it will be the responsibility of the resident procuring the Vendor to obtain and retain the required documentation for BMFHOA protection in the event that said Vendor has an accident causing a casualty or Association property damage. In the event the resident procuring the Vendor does not obtain and retain the required documentation and the Vendor does have an accident that causes a casualty or Association property damage, then the procuring resident will immediately file for coverage under the liability section of their homeowners policy.
- (d) All Vendors performing the following functions within BMFHOA will be required to provide proof of General Liability insurance: application of exterior chemicals of any kind, exterior spray painting, work on utility or telephone lines, installation of irrigation equipment, trenching of any type, drilling of any type, septic work, construction of pools. Such proof will come either in the form of an insurance company declaration page showing the named Vendor, insuring company name, policy number, and period of coverage; or an ACORD certificate of insurance from the Vendor showing the same information as the insurance company declaration page would provide. All documentation is subject to verification.
- (e) All Vendors performing the following functions within MFHOA will be required to provide proof of Workman Compensation or Employer Liability insurance: construction projects of any type, work on utility lines, installation of irrigation equipment, trenching of any type, drilling of any type, septic work. Such proof will come either in the form of an insurance company declaration page showing the named Vendor, insuring company name, policy number, and period of coverage; or an ACORD certificate of insurance from the Vendor showing the same information as the insurance company declaration page would provide. All documentation is subject to verification.
- (f) Vendors can waive the coverage referenced herein provided that they provide the procuring resident a signed and notarized Waiver of Claim Liability and Rights for any and all injuries to the Vendor's employees, independent contractors, agents or any personnel under the Vendor's care, custody, or control within MFHOA. This form must be signed and notarized by any personnel performing labor of any sort in the BMFHOA for the Vendor. The procuring resident must forward signed forms to the President of the Board or its duly appointed Board Member.

8.07 Failure to Comply Notice. Residents who fail to comply with these regulations and whose procured Vendor causes liability or property damage to The Burleson Magnolia Farms Homeowners Association, Inc. could be subject to separate fine by the Board, as well as reimbursement to the Association for damages paid out.

8.08 Exempt Organizations. The following Vendors are exempt from these requirements, due to either Public Utility status or financial filings that exhibit financial strength sufficient to waive insurance requirements: Texas Electric Service Company, United Cooperative Services, Bethesda Water Company, the City of Burleson, Johnson County Services, Southwestern Bell Corporation, Trinity Waste Services or any authorized affiliates thereof.

ARTICLE IX

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS-PROTECTIVE COVENANTS

9.01. The Property (and each lot situated therein) shall be occupied and used as follows:

- (a) Residential Use. All Lots (excluding however, those platted on which Common Properties will be located) shall be used for residential purposes only. No manufactured housing will be allowed. No building or structure shall be created, altered, placed or permitted to remain on any Lot other than a single-family dwelling and a private garage for two (2) or more automobiles. No building or structure on any Lot shall exceed three (3) stories in height. Barns and outbuildings are subject to approval of the Architectural Control Committee;
- (b) Minimum Floor Spaces. The main structure on each lot shall contain the minimum square footage, exclusive of porches, garages and other outbuildings, of 2500 square feet exclusive of porches, garages, and other outbuildings;
- (c) Permitted Construction. Any and all construction, regardless of type, must have appropriate County Construction Permits registered with Johnson County. Copy of said permit is to be given to the Architectural Control Committee Chairman before any approved construction begins;
- (d) Use of Contractor. New residence construction or remodeling, or reconstruction of a home from prior damage to be performed by licensed contractors. No "do it yourself" contracting by Lot Owner without approval by the ACC.

9.02. Garage and Porte-Caches. Each single-family residence dwelling erected on any Lot shall provide garage space or Porte-cache for a minimum of two (2) conventional automobiles. No garage shall directly face a residential street or any of the Common Properties. The Architectural Control Committee must approve porte-caches in writing. All driveways are to be constructed of concrete or brick pavers and must contain reinforcing bar.

9.03. Exterior Surfaces. The exterior surfaces of all residential dwellings shall be constructed of at least eighty percent (80%) brick, brick veneer, stone, stone veneer, masonry, or any combination thereof approved by the Architectural Control Committee. All exterior surfaces, especially and painted or stained wood surfaces (including without limitation garage doors) must be maintained in good condition. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation lights, mail boxes, exterior paint or stain, shall be subject to prior written approval of the Architectural Control Committee. The installation of solar panels on any roof or other portion of a residence, which is visible from any street, alley, or adjoining Lot, is expressly prohibited. All windows, which are visible from any residential street, shall be covered with draperies or blinds within thirty (30) days after the date on which the main structure is occupied. Tin foil or newspaper covering of windows is expressly prohibited.

9.04. Construction Completion Time. Owner must complete construction of improvements within one (1) year from the date on which construction has begun. Construction is deemed to have begun when the pad site is excavated. In the event that a residence is partially damaged or totally destroyed by fire or other causes, the Owner of such residence must either rebuild or restore the damaged residence, or portion thereof, and must commence such rebuilding or restoration within 120 days after the occurrence causing the damage or destruction. No rebuilding or restoration shall commence until plans and specifications have been submitted to the Architectural Control Committee (and are subsequently approved) as required in Article X hereof. In the event the Owner does not desire to rebuild or restore the residence, the Owner must clear away all remaining debris and restore the Lot to the condition in which it existed prior to the initial construction.

9.05. Roofs. All roofs shall be:

- (a) Constructed of slate, 240 lb. composition material with a color and physical appearance resembling new or weathered cedar wood shingles with a 30 year warranty or better, metal, or tile;
- (b) Approved by the Architectural Control Committee; and

(c) Otherwise be in compliance in all respects with applicable ordinances. The roof pitch of any structure shall be six (6) feet in twelve (12) feet or better.

9.06 Fencing. Acceptable fencing materials are wrought iron, pipe, or corral style pvc. "No climb" wire is acceptable to attach to pipe style fencing. Wood fencing, not exceeding six feet (6') in height may be used around pool pump only. Retaining walls can be constructed of brick or stone.

9.07 Definitions of structures. Structures are classified by the following:

1. A **garage** is defined as a structure that requires a foundation and has sufficient room for two (2) or more private passenger class car or light trucks. Garages must have a masonry exterior that is harmony with the primary residence. Garages may be attached or unattached to the primary residence. Garages are required to have electricity to be able to provide lighting and additional power for optional electronic openers. Doors for garages must be sectional in nature – no roll up doors allowed. No building, garage, or detached structure may face street.
2. A **building** is defined as any detached structure that is greater than 12 feet by 12 feet, requires a foundation, and is attached to the driveway of the single family dwelling, and can have water and electricity. Buildings must be in harmony with the primary residence. Buildings must be constructed behind the primary residence. Buildings cannot face a residential street or any of the common Properties. Buildings are limited to two (2) per Lot, not including garages.
3. A **barn** is defined as any structure that is greater than 12 feet by 12 feet that is used to livery horses or cattle. Barns must be made of a metal or masonry exterior and coordinate with the Owner's primary single family dwelling. Barns cannot be adjacent to nor attached to the Owner's primary single family dwelling. Barns must be at the rear of the Owner's property line. Barns may have water and electricity. Barns cannot face a residential street or any of the Common Properties.
4. An **outbuilding** is any structure that is less than or equal to 12 feet by 12 feet. Exterior material may be masonry, metal, or siding. All sided outbuildings must be painted to match the Owner's primary single family dwelling within 1 week of construction. Outbuildings not constructed on a concrete or pavers foundation must have lattice attached to the exterior portion of the outbuilding that is exposed to the elements. Sided outbuildings must have a roofing system that matches the Owner's primary single-family residence. Outbuildings may have water and electricity. Outbuildings are limited to two (2) per Lot.

9.08 Septic Systems. Septic systems must be an aerobic system engineered to meet the necessary dispersal requirements for the homes waste water disposal.

9.09 Propane Tanks Used for Utility and Appliance Heating. Propane storage tanks must be a minimum of 15 feet from any electrical generating device, painted and exhibiting no rust, and inspected by a licensed propane dealer annually. Propane tanks can be buried provided the Owner has obtained the proper permit from the TNRCC.

9.10 Swimming Pools. Pools are to be in ground, and of gunite construction. Homes with pools must have at least a four (4) foot fence either around the pool area or the perimeter of the Owner's property. Automatic pool covers on tracks that can cover the entire water surface area are by themselves unacceptable. A fence must be present.

9.11 Landscaping. Landscaping by definition is the installation of plant material to enhance the beauty of homes on Owner's Lot, as well as to enhance the aesthetic beauty of the neighborhood. The specific variety of plants used is at the sole discretion of each homeowner, as long as the plants do not block the view of vehicles using the roadway, or impede onto adjacent properties. Each lot shall be fully landscaped within one hundred eighty (180) days of completion of new construction and consists of the following:

1. **Planting Beds** are the areas in which plants are installed and may include ground cover, mulches, ornamental rock or gravel. A planting bed does not include turf grass. At minimum, a planting bed must extend across the front of the house, exclusive of open porches. Landscaping of the back of the house is not mandatory. All plants and planting beds shall be maintained at all times of the year. Maintenance includes pruning of shrubs and weeding of beds at regular intervals to preserve an attractive appearance.
2. **Turf** areas consist of all irrigated and non-irrigated grass areas of the property of which you own. Turf areas are to be properly maintained at all times by providing regular mowing to preserve a neat appearance. Areas that produce wild flowers are exempt from weekly mowing until the end of the growing season, at which time these areas must be maintained at a maximum of 6-8"
3. **Irrigation** is not mandatory, but is recommended. However, if an irrigation system is installed, it is mandatory that line locator test be performed by the local utilities to locate and flag all underground lines prior to digging.

Special Condition Relating to 209 Sherry Lane. The landscaping on the South side of the garage building located at 209 Sherry Lane shall be continuously maintained with the existing landscaping, including but not limited to all shrubs, trees and other landscaping and shall be replaced as needed by the current owner(s) of said property.

9.12 Lot Drainage. Appropriate drainage is required for all properties. Culverts must be professionally excavated and landscaped with grass. Use of sandy loam soil in culverts is not recommended.

9.13 Parking of Trucks, Buses, and Trailers. No truck or bus (except a passenger van for private use) or trailer shall be left parked on any street in front of any Lot, except for construction and repair equipment while a residence, or residences, are being built or repaired in the immediate vicinity. No truck, bus, boat, or trailer shall be parked in the driveway or any portion of the Lot in such a manner as to be visible from the street.

9.14 Storage of Boats, Trailers, and RV's. Storage areas for boats, trailers, and recreational vehicles are to be at the furthermost rear area of the Owner's property line as measured from the street. For boats, trailers, and recreational vehicles twenty (20) feet or greater in length, it is recommended that the owner construct a parking pad constructed of pavers or concrete. A licensed contractor must perform any parking pad constructed for this purpose. No more than two (2) boats, trailers, recreational vehicles, or a combination thereof may be parked on the Lot at the furthermost rear of the property line as measured from the street. For Owner's with more than two (2) boats, trailers, recreational vehicles, or a combination thereof, said Owner is to have said items stored in a building or garage on said Lot. If the Lot in question cannot accompany a building for said items, then Lot Owner will be required to park said items at a storage facility away from the Properties.

9.15 Signs. No sign or signs shall be displayed to the public view on any Lot except that;

- (a) Any builder during the applicable initial construction and sales period may utilize one professional sign (if not more than nine (9) square feet in size) per Lot for advertising and sales purposes provided that such sign must be approved by the committee;
- (b) Signs, lettering or other displays (collectively "advertisement") on Lot Owner vehicle(s) advertising their trade or business provided:
 - i. Not more than 1 advertisement per side of the vehicle is displayed on the Owner's vehicle(s), with a total of 2 advertisements per vehicle(s)
 - ii. Not more than 1 vehicle displaying said advertisement
 - iii. The vehicle(s) must be operational and used on a normal and customary basis

- iv. A Lot Owner may have more than 1 vehicle displaying said advertisement, provided, however, that said additional vehicle(s) are stored in a building or garage or otherwise in such a manner as to not be visible from the street.
- (c) A "for sale" sign (of not more than nine (9) square feet in size) may be utilized by the Owner of the respective Lot for the applicable sale or rent situation.
- (d) Signs displaying the name of a security company shall be permitted, provided that such signs are
 - a. Ground mounted;
 - b. Limited to two (2) in number (one in the front yard and one in the back yard);
 - c. Are authorized signs produced by said company
 - d. Subject to the prior written approval of the Committee.
- (e) Signs that are temporary in nature (i.e. "garage sale" signs) should only be permitted for a specific period of time upon approval by the Committee of a written request by the individual Lot Owner describing the nature of the sign and the time period for which it will be displayed. Garage sales in general, with or without signs, are still subject to Board approval pursuant to Article VIII.
- (f) Signs which support local, state, & national elections. Signs in support of local educational facilities, sports teams, or other community sanctioned signs. Signs in support of governmental or military support.
- (g) Any sign other than the type and size referenced in this section requires approval from the Architectural Control Committee.

9.16 Easements; Utilities. The street, all alleys and easements shown on the recorded plat of the Property may have no structure of any type whatsoever in these easement areas, nor may an Owner use the surface of all easement area or any other areas described with recorded easement areas, documents, and the Common Properties except local public utility companies and their respective successors. Public utility and service companies shall have the right of access, ingress, egress and use of the surface estate for the installation and maintenance of utility facilities.

9.17 Temporary Structure. No temporary structure of any kind shall be erected or placed upon any Lot. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling.

9.18 Garbage; Weeds. Not Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage containers shall be placed at the intersection of the driveway and the street in front of the dwelling on the day of collection, and otherwise such containers shall be in compliance with applicable ordinances. If after ten (10) days prior to written notice an Owner shall fail to (i) control weeds, grass and/or other unsightly growth; (ii) remove trash, rubble, building and construction debris; or (iii) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then the Board shall have the authority and right to go onto said Lot for the purpose of mowing and cleaning said Lot, and the Association may recover from the owner of such a Lot a sum not to exceed Five Hundred Dollars (\$500.00) for mowing or cleaning said Lot on each assessment, together with interest (at the highest permitted lawful rate per annum) thereon and any cost of collection, thereof, shall be a charge on the Lot and shall be a continuing lien, upon the Lot against which such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, shall also be the continuing personal obligation of the Owner of such Lot at the time when the assessment occurred. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage and any renewal or extensions thereof existing prior to the assessment date.

9.19 Offensive Activities; Pets. No noxious or offensive activity which is or may become an annoyance or nuisance within the Property or any portion thereof. No damaged or inoperable automobiles or machinery shall be left parking or standing on the Property or any street abutting any Lot. No poultry or swine of any

kind shall be raised bred or kept on any Lot. Dogs, cats, and other household pets may be kept within the confines of the Owner's property, provided that they are not bred, maintained or kept for commercial purposes and further provided that all Owner's shall comply with the applicable ordinances. Owners may keep horses and/or cattle on any Lot as follows:

- (a) Up to a total of four (4) horses and/or head of cattle on Lots containing a total of two and one-half (2.5) acres or greater;
- (b) Up to a total of two (2) horses and/or head of cattle on Lots containing a total of one and one-half (1.5) acres or greater, but less than 2.5 acres
- (c) Up to a total of six (6) horses and/or head of cattle on Lots containing a total of five (5) acres or greater.
- (d) Additional horses may be allowed when properly and aesthetically maintained in a stall environment, only upon written approval of the Architectural Control Committee.

9.20 Re-subdivision Not Allowed. No Lot shall be re-subdivided or split, except as allowed in Section 2.01(c) of this Declaration. Owners who own more than one lot and will only develop one of the lots may file to have the property re-platted to be treated as one lot. Said owners will only be liable for dues for the platted lot.

9.21 Oil Development and Mining Prohibited. No oil well drilling, development, refining, mineral quarrying, or mining operations of any kind shall be permitted. No oil well, tank, tunnel, mineral excavation, or shaft shall be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

9.22 Water wells. Subject to ACC approval and any regulatory approval as required by the State of Texas.

9.23 Rental/Leasing of Property. Should a member of the BMFHOA rent or lease their property, the following conditions are applicable:

- (a) The renter/lessee is subject to all the same Covenants, Conditions and Restrictions as the Lot Owner, including this Declaration;
 - (i) the Lot Owner, as part of the rental/lease agreement with the renter/lessee, will include a copy of the this Declaration;
 - (ii) the Lot Owner, as part of the rental/lease agreement with the renter/lessee, will obtain specific, written acknowledgement that the renter/lessee is bound by, and must follow all Covenants, Conditions and Restrictions, including this Declaration;
- (b) The Lot Owner must supply the BMFHOA with current contact information of the Owner and the renter/lessee in order that communication with the BMFHOA can be maintained;
- (c) Membership dues and any other assessments must be current at all times;
- (d) Tenant violations will not be tolerated. If the leased or rented property falls into violation of the Covenants, Conditions and Restrictions, including this Declaration the following actions will occur:
 - (i) Written notification of the violation will be sent by certified or registered mail to the renter/lessee and the Lot Owner;

- (ii) The Lot Owner will have fourteen (14) days to correct said violation;
- (iii) If the violation is not corrected, assessments will be levied against the Lot Owner as set forth herein;
- (iv) If the renter/lessee violates this Declaration whereby Board action, as outlined above, occurs more than two (2) times for the same violation, the Lot Owner will have the option to either:
 - 1. Provide contract service at the Lot Owner's expense so that the violation does not reoccur; or
 - 2. Terminate the rental/lease agreement.

ARTICLE X **ARCHITECTURAL CONTROL**

10.01 **Architectural Control Committee (ACC)**. The BMFHOA shall elect an ACC consisting of not less than three (3) or no more than five (5) qualified persons who shall serve at the pleasure of the Board. Association Members may hold a position on the ACC. The ACC will elect one (1) person to serve as Chair. The authority of the ACC relates to the review of plans and specifications. The ACC is empowered to require further details or documentation from the applicant if the application is found to be incomplete. A majority vote of compliance or non-compliance of application guidelines by the ACC will constitute a quorum. Anything covered in Article IX or X herein does not require ACC approval. Any request that falls outside of Article IX or X does require ACC approval.

10.02 **Approval of Plans and Specifications**. The purpose of the Committee is to review all applications, and/or plans and specifications pertaining to any and all improvements to all residential deeded property included in the Magnolia Farms Subdivision as recorded in the Johnson County Deed Records. The Committee must review and approve, in writing, all of the following improvements to the Property:

- (a) Construction of any building, barn, outbuilding, wall, fence, or other structure not specifically included herein
- (b) Any exterior addition or alteration, including exterior repair or replacement, of any building, barn, outbuilding, wall, fence, or other structure not specifically included herein.
- (c) Any landscaping or grading of any lot or lots within the Property including, but not limited to new or renovation construction, culvert design and/or maintenance, and irrigation, not specifically included herein.

10.03 **Approval for Work to be Performed, Acceptable Manner of Application and Communication** To obtain approval for work to be performed, Owner of Lot(s) must submit all plans and specifications for the proposed work to the ACC in writing. Such plans shall include and detail the nature, shape, height, materials, colors, and location of the proposed work. Applications may be sent to the ACC Chair for Committee distribution in one of the following forms: U.S. Mail via certified return, facsimile with confirmation of receipt printed on the sent document, electronic mail with a read receipt attachment, or the Committee Chair in person. The applicant should obtain a signed and dated notice of delivery from the Chair. If electronic mail is used and review documents are to be attached, the file format for use will be a portable document file (pdf). As such, these forms may also be used to communicate with the ACC, but only if all ACC Members are either present or receive information via other methods in the same manner, timing, and content. Applications per telephone conversations are not allowed. ACC Members may discuss the application in person as a group, by teleconference, or by electronic mail conference with all members in

attendance. If meetings are not in person, it is the responsibility of the Committee Chair to have provided the other Members with the application and information for review.

10.04 **Review of Submitted Applications** The ACC shall review applications for proposed work to (i) ensure conformity of the proposal with these Covenants and Restrictions, and (ii) ensure harmony of external design in relation to surrounding structures and topography. An application should be submitted following the guidelines as set forth in Section 10.03 of this document. An application can be rejected for incomplete information. In rejection of an application, the ACC should detail the reasons for rejection and suggest how the applicant could remedy the deficiencies.

10.05 **Failure of the ACC to Act** If the ACC fails to accept or reject an application for proposed work within a 30 (30) calendar days of original submission, the applicant Owner must take the following action to resolve the matter:

- (a) Send a certified letter with return receipt to the ACC Chair requesting final acceptance or rejection of the application for work to be performed. Ten (10) calendar days must pass without response from the ACC Chair before the Owner applicant proceeds to the next step. A certified copy of the letter will be sent to each member of the Board as well.
- (b) If the ACC Chair has not responded to the certified letter from the Owner applicant within ten (10) calendar days of receipt of letter, Owner applicant will arrange to meet before the Board to present the application for review. A certified letter with return receipt must be sent to the Board President requesting a meeting for review in the next ten (10) calendar days from receipt of letter.
- (c) The Board will review the application for determination for acceptance or rejection. If the Board cannot meet with the Owner applicant for application review within the ten (10) calendar days from the receipt of the certified letter, the Owner applicant will be deemed to be in compliance with their application and said project will be approved by default.
- (d) However, under no circumstances of failure to act and through an application approval by default will an Owner be allowed to perform work to the Lot that contradicts these Covenants and Restrictions. If said Owner through approval by default constructs or otherwise builds a project that does not conform or ensure harmony to these Covenants and Restrictions, said Owner will be in violation of said document. As such, said Owner will be subject to all legal remedies available to the Association; including but not limited to the destruction of said violation.

10.06 **Remedy to Lot Owner for ACC Declination or ACC Failure to Act**: Should a Lot Owner fail to obtain approval for a submitted project, said Lot Owner has the option to submit their project to the entire BMFHOA for review and approval. Lot Owner will be responsible for delivery to ALL BMFHOA Members the same plans for application submitted to the ACC. Lot Owner will notify BMFHOA President in writing upon final delivery and confirmation of submission to all BMFHOA Members. Confirmation may include Certified US Mail, copies of facsimile transmission, verification of return receipt through electronic mail, or a hand written acceptance by each Member upon delivery by Lot Owner Applicant. Application and submission review to all BMFHOA Members will be limited to no more than thirty (30) days after either 1. Formal declination from the ACC; or 2. After the procedure outlined in 10.06 has been followed in its entirety. Responses from BMFHOA Members must be in writing and delivered to the President of the BMFHOA and will be limited to ten (10) days after confirmation of receipt of project application by said Lot Owner. Seventy-five (75) percent of BMFHOA Members must approve the project to override an ACC declination or a Failure of the ACC to Act.

ARTICLE XI
GENERAL PROVISIONS

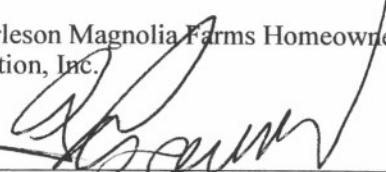
11.01 Duration. The Covenants and Restrictions of this Declarations shall run with and bind the land subject to this Declaration, and shall insure to the benefit of and be enforceable by the Association and/or the Owners subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for perpetuity. In the event that the Owners within the Association no longer desire Covenants and Restrictions for the Association, in whole or in part, then a recorded vote to abolish said Covenants and Restrictions must be agreed to by two-thirds vote of the Members. Such vote will give ninety (90) days notice to Members before being effective and will be recorded in the Deed Records of Johnson County, Texas.

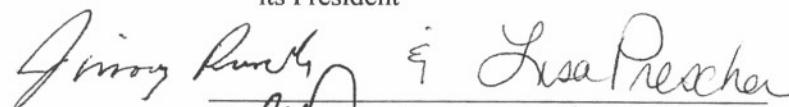
11.02 Enforcement. Enforcement of these Covenants and Restrictions shall be by a proceeding initiated by the Board or Association (or by any Owner if either the Board or Association are deemed unauthorized to do so) against any person or persons violating or attempting to violate any Covenant or Restriction contained herein, either to restrain or enjoin the violation or to recover damages for the violation, or to enforce any lien created by this instrument.

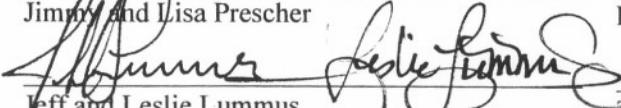
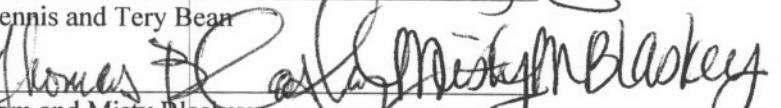
11.03 Notice to Owners. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

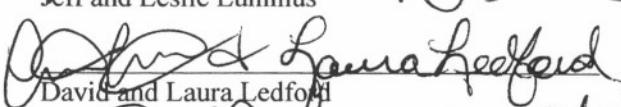
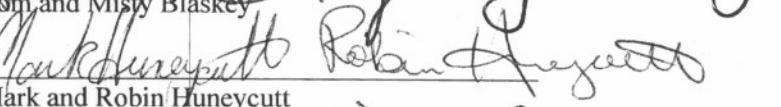
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

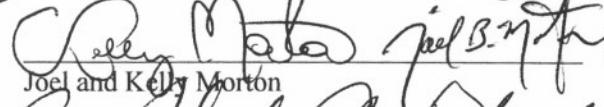
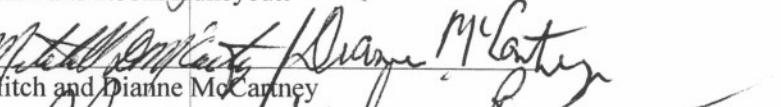
The Burleson Magnolia Farms Homeowners
Association, Inc.

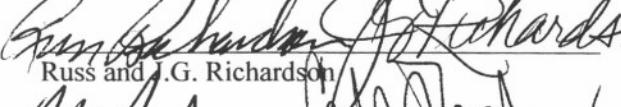
By: 
its President

 Jimmy and Lisa Prescher  Dennis and Tery Bean
Jimmy and Lisa Prescher Dennis and Tery Bean

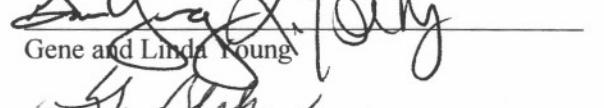
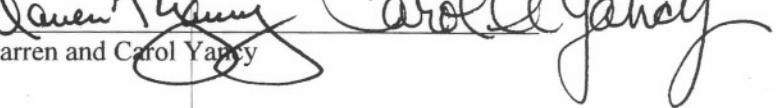
 Jeff and Leslie Lummus  Tom and Misty Blaskey
Jeff and Leslie Lummus Tom and Misty Blaskey

 David and Laura Ledford  Mark and Robin Huneycutt
David and Laura Ledford Mark and Robin Huneycutt

 Joel and Kelly Morton  Mitch and Dianne McCantey
Joel and Kelly Morton Mitch and Dianne McCantey

 Russ and J.G. Richardson  Gregory and Sylvia Rosario
Russ and J.G. Richardson Gregory and Sylvia Rosario

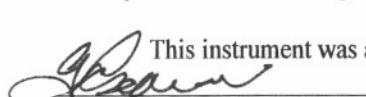
 Martin and Carla Parker  Pete and Yvonne Trevino
Martin and Carla Parker Pete and Yvonne Trevino

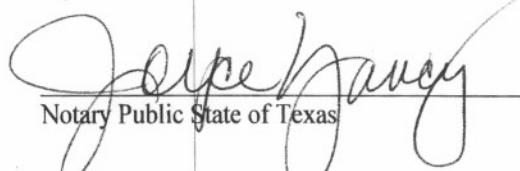
 Gene and Linda Young  Darren and Carol Yancy
Gene and Linda Young Darren and Carol Yancy

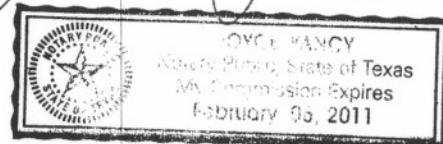
 Sherry Blakeney

The State of Texas §

County of Johnson §

 This instrument was acknowledged before me on the 4 day of April by
the President of The Burleson Magnolia Farms Homeowners Association, Inc.

 Joyce Nancy
Notary Public State of Texas

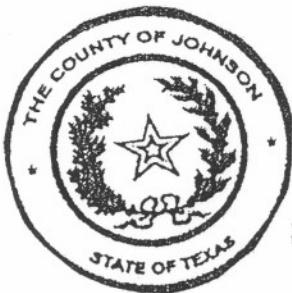


WARNING --- THIS IS PART OF THE OFFICIAL RECORD
DO NOT DESTROY

Filed For Record 1:38 AM PM

APR 04 2008

County Clerk Johnson County
By LB Deputy



**STATE OF TEXAS
COUNTY OF JOHNSON**

that I hereby certify this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS OF JOHNSON COUNTY, TEXAS in the Volume and Page as shown heron.

CHD
CURTIS H. DOUGLAS, COUNTY CLERK
JOHNSON COUNTY, TEXAS