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CLERK OF SUPERIOR COURT
COLUMBIA COUNTY, GEORGIA

STATE OF GEORGIA

BOOK _____ PAGE _____
CINDY MASON, CLERK

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COUNTY OF RICHMOND)

BOOK 3286 PAGE 22-53

CINDY MASON, CLERK

**DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR MAGNOLIA GLEN**

THIS DECLARATION made and published this 17th day of Oct., 2002, by MEYBOHM REALTY, INC., (hereinafter referred to as "Declarant"), and MAGNOLIA GLEN PROPERTY OWNERS ASSOCIATION, INC., a non-profit organization to be organized under the laws of the State of Georgia (hereinafter referred to as the "Association"),

WITNESSETH:

WHEREAS, Declarant is the owner of all those building Lots lying and being in Columbia County, Georgia, which are more particularly described as follows:

ALL that tract or parcel of land with improvements thereon, situate, lying, and being in the 126th G.M.D., Columbia County, Georgia. Said parcel of land is further described as follows:

A tract of land containing 15.37 acres, more or less, and 47 lots known as Lots 1-27, Block A, and Lots 1-13, Block B, and Lots 77-83, Block A as more particularly described on a survey plat prepared for Magnolia Glen, Section I Phase I, by James G. Swift & Associates and recorded with the Office of the Clerk of the Superior Court of Columbia County in Plat Cabinet D, Slide 182, Numbers 7-9; reference is hereby made to said plat for a more complete and accurate description of said tract of land, its exact location, dimensions, metes, bounds, and distances.

(hereinafter sometimes referred to as the "Property")

WHEREAS, Declarant has developed the Property into single-family residential Lots (hereinafter referred to as "Lots") on the Property known as Magnolia Glen (hereinafter referred to as the "Subdivision");

WHEREAS, Declarant deems it desirable to protect the Owners of the Lots within the Property (hereinafter referred to as "Owners" or "Lot Owner") against improper development and use of the Lots which would impair or depreciate the value thereof;

WHEREAS, Declarant desires to provide and maintain adequate setbacks, signage controls, use restrictions, size restrictions and architectural design control in order to achieve the best use of the Property; and

WHEREAS, Declarant desires to subject the Property to the covenants, restrictions, easements and agreements hereinafter set forth, each of which is for the protection and benefit of the Property and for the benefit of all subsequent Lot Owners and which shall inure to the benefit of and run with the title to the Property; and

WHEREAS, the Declarant has or will cause the Association to be incorporated under the laws of the State of Georgia for the purposes of exercising the powers and functions aforesaid; and

WHEREAS, it is to the interest, benefit, and advantage of the Declarant, the Association, and each and every person or entity who shall hereafter purchase and/or own a Lot in the subdivision, that certain protective covenants governing and regulating the use and occupancy of the same, and certain easements, reservations, and servitudes to be imposed upon said property, and the same be established, set forth and declared to be covenants running with the land.

NOW THEREFORE, Declarant, for and in consideration of the premises and the benefits to be derived by the Declarant, the Association, and each and every subsequent owner of any of the Lots of said subdivision, hereby declares that the Property is subject to this Declaration, and the Property shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration, and subject to the covenants, restrictions, easements, and agreements hereinafter set

forth. Every grantee or beneficiary of any interest in any portion of the Property, by acceptance of a deed, lease, or other conveyance or transfer of such interest, by operation of law or otherwise, whether or not it shall be so expressed in any deed or other conveyance or transfer and whether or not grantee or beneficiary shall consent in writing thereto, shall take title to the Lots subject to the terms and conditions of this Declaration and shall be deemed to have assented to the terms and conditions hereof.

ARTICLE I
RESIDENTIAL USE, BUILDING, AND LOCATION OF STRUCTURES

1.01. **Size of Structures.**

All of the Lots shall be used only for residential purposes for the erection of one detached single-family dwelling, not exceeding two (2) stories in height. In determining whether a house exceeds two (2) stories in height, a basement or an attic shall not be counted as a story. In approving any two-story, one and one-half story, or split-level structure, the Architectural Control Committee, as hereafter described, may require that the top stories of the structure be constructed in accordance with normal design practices, and the top floor area not be proportionally smaller than is customary in residences of its type. The Architectural Control Committee, recognizing that the quantity of square foot does not alone necessarily determine design and construction quality or monetary value of a residential structure, shall not be bound by a minimum square footage requirement for a residence. It is the intention, rather, of the Declarant that the sole criteria governing the nature of such improvements to be constructed in Magnolia Glen shall be those of good taste, high quality, both as to workmanship and materials, and harmony and suitability of such improvements to their environment and surroundings.

1.02. **Sleeping Quarters in Attic, Garage, or Outbuilding Prohibited.**

No attic, shack, garage, barn, or detached outbuilding shall be used for sleeping quarters, except that servant or guest quarters may be provided as a part of or accessory to a main residential building and shall conform to it in exterior design and quality. A storage shed shall have its roof shingled, with shingles matching the main dwelling structure. The storage building shall be properly landscaped so as to obscure its visibility from the street and adjoining properties. This provision shall not prohibit the conversion of a garage into sleeping quarters which are incorporated as part of the main residential building.

1.03. **Altering Lot Boundaries.**

No Lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Columbia County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat and change the boundary lines or subdivide any Lot or Lots; and to take such other steps as are reasonably necessary to make such re-platted Lot suitable and fit as a building site, including but not limited to the relocation of easements, walkways, rights-of-way, and other amenities. No Lot shall be reduced in size so that the resulting Lot is less than 90% in size of the smallest Lot on the initial recorded subdivision plat. The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this Declaration.

1.04. **Location of Building on Lot.**

It is the intention of the Declarant that the Architectural Control Committee allow the construction of structures to be erected on any Lot in Magnolia Glen in such a location on each Lot as will more fully enhance the natural harmony and aesthetic appeal of Magnolia Glen. The Architectural Control Committee shall be vested with full discretion as to the location of such structures, including but not limited to the main dwelling and any storage facility, as set forth in Article II hereof. However, no building of any kind or character shall be erected within fifteen (15) feet of the right-of-way of any road in Magnolia Glen, nor within five (5) feet of any side Lot line, nor within any buffer zone or easement area as shown on the recorded subdivision plat.

Notwithstanding anything contained herein, should the subdivision plat prepared by James G. Swift & Associates, recorded in the Office of the Clerk of the Superior Court of Columbia County, Georgia, be inconsistent with the minimum building lines, easements, or restrictions, declared herein, the subdivision plat shall control over these Covenants and Restrictions, unless otherwise approved by Columbia County, Georgia and the Architectural Control Committee. If any of the aforementioned Lots are subdivided or enlarged pursuant to the provisions of Paragraph 1.03 of above, the rear and side line restrictions shall be applicable only to the rear and side lines of the Lot as altered or re-subdivided.

1.05. **Main Dwelling Built First.**

No building or structure shall be constructed prior to construction of the main dwelling on the Lot. The Provisions of this Declaration shall not prohibit the Declarant from using a house or other structure located on Lots as models or sales offices.

1.06. **Zoning Restrictions.**

Zoning ordinances, restrictions and regulations of Columbia County and its various agencies

applicable to the subject property shall be observed. In the event of any conflict between any provision of this Declaration, and such ordinances, restrictions, or regulations, the more restrictive provision shall apply.

ARTICLE II
ARCHITECTURAL CONTROL COMMITTEE

2.01. **Submission of Plans, etc.**

An Architectural Control Committee (hereinafter referred to as "ACC"), has been appointed by the Declarant to exercise such jurisdiction and functions with respect to all Lots in Magnolia Glen, and as may now or hereafter by amendment be additionally bestowed upon it pursuant to the terms of this Declaration. Plans, specifications, site plans or such information as the ACC deems appropriate for all proposed improvements and landscaping upon all Lots must be submitted in writing to the ACC, which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require the modification of the same as it may, in its discretion, deem proper. No construction or improvements of any kind may be undertaken without the ACC'S prior written approval. The ACC shall have the right to refuse or disapprove any building plans, specifications, site plans, or grading plans which are not suitable or desirable in its sole opinion for any reason, including purely aesthetic reasons. In reviewing building plans, specifications, site plans, or grading and landscape plans, the ACC shall take into consideration the suitability of the proposed building, the materials of which it is to be built, the location on the Lot of the proposed building and any other improvements, the harmony of the building as planned on the adjacent or neighboring portions of the subject property as well as the character of the entire neighborhood. After approval by the ACC, all fences, walls, barbecue pits, detached garages, and

other accessory buildings or recreational facilities shall be constructed in general conformity with the architecture of the main dwelling, and out of materials which conform to the materials used in the such main building. Building plans and specifications submitted to the ACC shall contain such information that ACC may from time to time deem appropriate and necessary, in such detail as may be required by the ACC in its sole discretion. Plans and specifications shall show driveways, service courts or areas, parking and any other building, improvements, or facilities to be constructed.

2.02. **Conforming with Building Codes.**

All improvements upon the Property shall be constructed in conformity with the building code of Columbia County, Georgia, which now or hereafter exist, or in the absence of such building or code, then built in conformity with the Southern Standard Building Code or similar code.

2.03. **Completion of Construction Within One Year.**

The exterior of all buildings or other structures must be completed within one (1) year after the construction of the same shall have been commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fire, national emergency, or natural calamity.

2.04. **Fences, Hedges, and Trees.**

No fence, hedge, wall, shrub, bush, tree or other similar structure, natural or artificial, shall be placed, maintained or permitted to remain on any Lot or area if the location of such structure obstructs the vision of motorists on any adjacent street or lane and creates a traffic hazard. No fence, wall, hedge or similar structure on any Lot shall be constructed or maintained which is either more than six (6) feet in height or higher than that allowed by ordinance currently enforced by Columbia County, whichever is more, or which is nearer the street boundary line of the Lot than the front line

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of the main residential building as extended to the side Lot lines. Nevertheless, low decorative walls or hedges may be erected beyond the front line of the main residential structure but only with the written approval of the ACC.

A fence shall not be erected unless the owner of the Lot upon which said fence is to be erected receives the prior written approval of the ACC. A uniform fence shall be used for all lots subject to these covenants. The ACC shall establish the design and specifications including color, of the fence for all Lot Owners, subject to the right of the Declarant or ACC to modify such design and specification in its sole discretion at any time and from time to time because of the influence or effect of topography, availability or quality of building materials, Lot or overall development aesthetics, safety and other such considerations. Additionally, all fences shall be of a uniform color or stain as designated by the Declarant, or later charged by the ACC.

2.05. **Membership in the ACC.**

Initially, the ACC is composed of E. G. Meybohm, O. Lamar Crowell, Jr. and William G. Boatman. A majority of the ACC may designate a representative to act for them. In the event of death or resignation of any member of the ACC, the remaining members shall have full authority to designate a successor. Neither the members of the ACC, nor their designated representatives, shall be entitled to any compensation for services performed pursuant to these covenants. At any time, after the sale of the Declarant of 100% of the Lots shown on the plat of Magnolia Glen, and any additions thereto, the then record owners of a majority of the Lots shall have the power through a duly recorded written instrument to change the membership of the ACC or withdraw from or restore to the ACC any of their powers and duties.

The ACC's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representatives, fails to approve or disapprove improvements within thirty (30) days after the plans and specifications have been submitted to it or in any event, if no suit or enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

ARTICLE III
LAND USE RESTRICTIONS

3.01. **Animals.**

No animals, including reptiles, fowl, swine, cows, or other farm animals may be kept in or maintained on a lot. Provided however, dogs, cats, birds and fish commonly kept as household pets may be maintained on a lot, but there shall be no more than an aggregate total of two dogs and/or cats for any one dwelling. Animals shall not be maintained or bred for any commercial purpose. All animals must be leashed or fenced when outside. Any animal which causes excessive annoyance or disturbs the tranquility or safety of Magnolia Glen shall not be permitted to remain on the Lot. The Board may adopt strict rules governing animals in Magnolia Glen, and may delegate its authority to approve pets to a committee appointed by the Board.

3.02. **Vegetable Gardens.**

No vegetable garden may be planted on a Lot except behind the line of the rear of the main dwelling structure as the same is extended to a point of intersection with the side Lot lines.

3.03. **Screened Areas for Unsightly Items.**

No garbage receptacles, fuel tanks or similar storage receptacles, clotheslines, and other unsightly objects may be maintained except in screened areas which conceal them from view from

streets and adjacent portions of the subject land. Plans for such screened areas delineating the design, size, appearance and location must be approved by the ACC prior to their construction. Garbage receptacles and fuel tanks may be located outside of such screened areas only if located completely underground.

3.04. **No Dumping or Rubbish.**

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers screened from view, as provided in Paragraph 3.03. It shall be the responsibility of the owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on his Lot which tend substantially to detract from the beauty of the subject land as a whole or his Lot in particular. No outside burning of trash, garbage or other refuse shall be permitted on any Lot.

3.05. **Trucks, Trailers, Mobile Homes and Satellite Equipment.**

No parking of 3/4 ton or larger trucks, panel trucks, work trucks, trailers, or mobile homes shall be permitted on the streets Lots or other portions of Magnolia Glen except during construction and, thereafter, except for delivery and pickup or remodeling and repair of buildings on the subject property. Campers, motorcycles, motorbikes, motor homes, vans, travel trailers, panel trucks, flatbed or work trailers, boats and boat trailers or any other vehicles as designated by the ACC, not over twenty-five (25) feet in length may be kept on a Lot only if parked in a closed garage at all times. Special exception to this restriction may be granted an owner provided prior written permission from the ACC, and written permission of all the owners of the contiguous Lots is obtained, and such campers, motorcycles, motorbikes, motor homes, vans, travel trailers, panel trucks, boats and boat trailers are parked in the rear yard so that they are not visible from any street or adjacent Lot. No

satellite dish in excess of two (2) feet in diameter, or similar equipment should be placed upon any Lot or improvement. Provided, however, a satellite dish, measuring no more than two (2) feet in diameter, may be placed on the home only if its visibility from the right of way on any street within Magnolia Glen is substantially impaired. Street parking of vehicles for work, paneled trucks and/or trailers is prohibited.

3.06. **Hobbies.**

The pursuit of hobbies or other activities, including without limiting the generality hereof, the assembly and disassembly of motor vehicles and other mechanical devices, which might lead to disordered, unsightly or unkempt conditions, shall not be pursued or undertaken on any Lot. No permanent type of sports equipment shall be located on any Lot where such equipment would be visible from any street without the prior written approval of the ACC; except, however, permission is not required for a single basketball goal which is attached to the house or within ten feet of the garage. There shall be no portable basketball goal used on the street.

3.07. **Driveway and Walks.**

No breaks shall be made in any curb or gutter on or adjacent to the right-of-way of any street for the purpose of constructing any driveway, walk or other means of ingress to and egress from a Lot, unless the apron of such driveway or walk shall be constructed of a permanent paving material which is structurally and aesthetically compatible with the curb or gutter being broken and the adjacent street. Such driveway or walk shall tie in with the street curb and/or gutter in such a manner that a hazardous condition is not created. There shall be reserved a Sidewalk and Landscape Easement access in the front of each lot, a five (5) foot easement which shall run along the right of way. Once sidewalks are installed they shall become the property of Columbia County.

The owners of the lots shall maintain any grass or street trees (a tree located in the right of way) provided however, property owners shall not have any right to cut, or destroy any street tree.

3.08. **Noxious of Offensive Activity.**

No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to other Magnolia Glen residents. There shall not be maintained on any Lot any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, and unpleasant or of such a nature as may diminish or destroy the enjoyment of other portions of Magnolia Glen.

3.09. **Signs and Mailboxes.**

Except as otherwise provided in these Declarations, no sign shall be erected or maintained in any portion of Magnolia Glen by anyone including, but not limited to, an owner, a realtor, a contractor or subcontractor, except with the written permission of the ACC or except as may be required by legal proceedings. If such permission is granted, the ACC reserves the right to restrict design, color and content of such a sign. A sign of not more than four (4) square feet may be used by a contractor during the construction period of the main dwelling structure or accessory structures is permissible and only one (1) usual "For Sale" realtor sign per lot may be erected without the permission of the ACC. Under no circumstances shall any banners, twirling signs "A" type signs, sidewalk or curb signs, balloons or other air or gas filled figures, rotating, flashing, blinking, fluctuating, portable or other animated signs be allowed on any Lot.

Neither a mailbox nor its stand shall be erected unless the owner has received the prior written approval of the Declarant. A uniform mailbox shall be used for all Lots. The Declarant shall establish the design and specifications of such mailbox, subject to the right of the Declarant to

modify such design and specifications in its sole discretion at any time because of the influence or effect of topography, availability or quality of building materials, Lot or overall development aesthetics, safety and any other considerations.

3.10. Play Structures and Yard Accessories.

Notwithstanding any provision herein to the contrary, no basketball backboards and other fixed sports equipment shall be used or maintained in any street or cul-de-sac of Magnolia Glen. Unless otherwise approved by the Board or set forth hereinabove, all play structures and yard accessories shall be located to the rear of the Home. Any such equipment, structure or accessory exceeding six feet in height shall require the approval of the ACC.

3.11. Heating and Air Conditioning Equipment.

The location of all original outside heating and air conditioning equipment shall be approved by the ACC. The Board may adopt rules relating to the location, appearance and screening of outside heating and air conditioning equipment, and may prohibit window air conditioning units or impose strict rules relating thereto.

3.12. Garages Doors.

Garage doors which are visible from the street shall remain closed at all times except when vehicles are entering and exiting from garages.

ARTICLE IV
BUILDING SET BACKS AND RESERVATIONS OF EASEMENTS

4.01. Reservation of Easement.

The Declarant reserves unto itself, a perpetual, alienable, non-exclusive and releasable easement and right on, over and under the ground to erect, maintain, and use electric service,

community antenna television, and telephone poles, street lights, wire, cables, conduits, drainage ways, community entrance signs, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage, or other public conveniences or utilities on, in and over the rear ten (10) feet of each Lot and each five (5) foot side Lot boundary line. In the event of the re-subdivision or the altering of any Lot under paragraph 1.03 hereof, this easement shall apply to the Lot as altered or re-subdivided, unless the installation of drainage or utility facilities shall have been completed in accordance with the Lot as shown on the initial recorded plat. Where a larger or more specific easement is shown on the recorded subdivision plat or other recorded document, the larger or more specific easement will apply instead of the easement herein reserved. The rights herein reserved may be exercised by Columbia County or any subdivision thereof or any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

4.02. **Setbacks.**

All structures shall be set back a minimum of fifteen (15) feet from any street or public right-of-way, five (5) feet from any side property line and ten(10) feet from the rear property line unless otherwise shown on the recorded plat of the subdivision or unless otherwise required by law or ordinance.

Only driveways and landscaped areas will be permitted in the area between the front elevation of building structures erected on a Lot and the front property line adjoining a street or public right-of-way.

4.03. **Green Space**

There shall be granted a non-exclusive easement for the quiet use and enjoyment of all lot

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owners of Magnolia Glen, their immediate family members, and/or invitees over land designated as the Green Space on the subdivision plat. The right of entrance for ingress and egress to said Green Space shall be the space of the entrance way located off of Magnolia Glen Place. The stated purpose of the Green Space shall be for general recreation, and quiet use and enjoyment of the property owners subject to this Declaration. Any special or planned event may take place on said Green Space, but only with the prior written permission of either the ACC and/or the Magnolia Glen Property Owners Association, Inc., whoever is appropriate. The ACC or the Property Owners Association may hereafter implement rules and regulations for the use of said property, as it deems appropriate.

The neighborhood Association shall manage the green space located on Old Belair Road and Magnolia Park Way where the entrance signs are located.

There shall be no right of ingress or egress to said Green Space easement over and through any lot not specifically designated herein.

ARTICLE V
THE ASSOCIATION

5.01. **Powers.** The Association shall have all the powers of a nonprofit corporation organized under the laws of the State of Georgia, subject only to the limitations expressly set forth in this Declaration, the Supplemental Declarations, the Articles and the Bylaws. The Association may acquire, hold and dispose of real and personal property conveyed to it by Declarant. The Association may exercise all rights, powers and privileges granted by this Declaration, the Supplemental Declarations, the Articles and the Bylaws, and every other rights, power or privilege reasonably implied from or reasonably necessary to exercise any expressed right, power or privilege.

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5.02. **The Common Area.** The Association shall be responsible for the exclusive management of the Common Area, and shall maintain the same in a clean and attractive condition, and in good order and repair. The Association may adopt reasonable rules governing the use and enjoyment of the Common Area.

5.03. **Board of Directors.** The Board shall manage the affairs of the Association. Unless otherwise provided, any right, power of authority granted to the Association may be exercised by the Board, and any duty or obligation of the Association shall be performed by the Board. The Board shall have the authority to adopt and the power to enforce reasonable rules and regulations to govern the Association and the use and enjoyment of the properties in Hones Crossing (the "Board Rules"). The Board Rules may impose standards not contained in or more strict than this Declaration, if consistent with the general intent hereof and not in conflict herewith. Any specific authority herein granted to the Board to adopt rules for specific purposes shall not limit its general authority hereunder to adopt rules. The Board Rules shall be observed by all Owners and their tenants, occupants and guests. The Board may waive a violation of the Board Rules, if Board determines such violation to be minor or insubstantial.

5.04. **Election of Board.** Declarant shall have the right to elect and remove members of the Board during the Development Period, unless Declarant sooner waives this right. Thereafter, the Board shall be elected and removed by the Members in accordance with the Bylaws.

Article VI

MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS OF ITS MEMBERS

6.01. **Membership.**

All owners of a single-family residential building Lot or Lots in Magnolia Glen shall thereby

be member of the Association for so long as such ownership continues. The Association is being formed and organized so as to provide an entity to operate, maintain the common areas and elements of Magnolia Glen. These areas and elements include, but are not specifically limited to: (a) fence bordering the sidewalk, (b) the entrance area easements, and (c) the area designated as Green Space(s) on the subdivision plat. The Association shall additionally, without limiting its powers as granted in its bylaws or charter, be charged with the determining of the amount and extent of any assessments, the levying of any special assessment, and the collection of said assessment. No person or corporation in taking title as security for the payment of money or for the performance of any obligations shall thereby so become entitled to membership. Ownership of the property as qualification for membership is defined herein as follows: ownership of any such Lot under recorded deed, whether the owner is occupant or not, or ownership under a bond for title or contract for purchase, if the same be accompanied by an actual occupancy of the Lot in question. Ownership within the meaning and intention hereof shall cease upon the sale of any such Lot to another by the owner thereof. Sale of any such Lot within the meaning hereof shall mean and shall be effective upon the recording of any deed conveying such Lot to another, or the termination of occupancy of the property by the owner thereof accompanied by the giving of such owner to another of a bond for title or contract of sale with respect to such lot.

The Declarant shall be a member of the Association so long as it is the owner of one (1) or more residential Lots as shown on the aforesaid plat, or of any additional Lots made subject to these Declarations under the provisions of this Declaration.

Members of the Association shall consist of two (2) classes, Class A member and Class B members, who respectively shall have the rights, voting privileges and duties as set forth in

the corporate charter or bylaws of the Association and as hereinafter set forth, to-wit:

(a) Class A members shall initially consist of the Declarant, who shall be entitled to voting privileges, in the same amount of one (1) vote for each residential Lot owned by it in Magnolia Glen, or in additional real estate made subject to these Declarations pursuant to the provisions of this Declaration.

(b) Class B members shall consist of all other owners of residential Lots in Magnolia Glen other than the Declarant. Class B members shall not have voting privileges until the Declarant in its sole discretion shall so designated or until the Declarant shall have conveyed eighty-five percent (85%) of the residential Lots as shown on the aforementioned plat and upon the plat or plats of Lots composing such additional real estate made subject to these Declarations pursuant to the provisions of this Declaration, whichever occurs first, at which time Class B members shall automatically become Class A members. In the event that a Class B member shall own more than one (1) contiguous Lot upon which only one (1) residence is constructed, such member, upon becoming a Class A member, shall be entitled to only (1) vote, and shall likewise only be subject to the imposition of dues and assessments calculated for a single Lot. A corporation owning one (1) or more Lots in Magnolia Glen shall have one (1) vote for each such Lot owned, but no member, stockholder, director, employee or officer of such corporation shall acquire thereby any rights individually to become a member of the Association.

6.02. **Voting Rights.** With the exception of Declarant, Members shall be entitled to one vote in the Association for each Lot owned, unless Declarant sooner waives this right. Thereafter, Declarant shall be entitled to one vote for each Lot owned. When a Lot is owned by more than one person, all such persons shall, collectively, cast only one vote. Fractional votes shall not be allowed.

If only one of such persons is present or represented by proxy at a meeting of the membership, that person is entitled to cast the vote relating to such Lot. If more than one of such persons are present or represented by proxy, the vote relating to such Lot shall be cast only in accordance with their unanimous agreement; otherwise, they shall lose their right to vote on the matter in question. Unanimous agreement is conclusively presumed if any one of them purports to cast the vote relating to such Lot without protest being made forthwith by any of the others to the person presiding over the meeting.

ARTICLE VII
COVENANT FOR MAINTENANCE ASSESSMENTS

7.01. **Creation of Lien and Personal Obligations of Assessments.** Each Owner of each Lot owned within Magnolia Glen, hereby covenant and agree to pay to the Association annual, special and individual assessments which shall be established and collected as herein provided. Each assessment, together with all other charges authorized pursuant to this Declaration which is deemed a part of the assessment, shall be a charge and a continuing lien upon the Lot against which the assessment is made from the date the assessment became due, and shall be the personal obligation of the Owner of the Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them. The obligations of this article shall bind each Lot and each Owner regardless of whether ownership was acquired by deed or operation of law, and regardless of whether ownership was acquired by deed or operation of law, and regardless of whether so expressed in the deed or other document of title. No Owner may avoid liability for the assessments provided for herein by abandonment, non-use or waiver of the use or enjoyment of his Lot, or otherwise.

7.02. **Purpose of Assessments; Uniform Rate.** Assessments shall be used exclusively for expenses of the Association reasonably incurred in the performance of its duties and responsibilities, including the maintenance of reasonable reserves, and to promote the health, safety and general welfare of Magnolia Glen and the Owners and occupants thereof. Both annual and special assessments shall be set at a uniform rate for all Lots.

7.03. **Annual Assessments.** The Board of Directors shall levy an annual assessment for each calendar year. The amount of the annual assessment shall be established by the Board at least thirty days in advance of the assessment period, and written notice thereof shall be sent to every Lot Owner. The Board shall determine when annual assessments shall be paid and may permit payment thereof in installments. A Lot shall become subject to annual assessments when the Home constructed thereon is first occupied as a residence. The annual assessment for Lots which become subject to annual assessments during an assessment year shall be prorated and paid based on the number of whole months remaining in the assessment year. The initial assessment for the year 2003 shall be \$180.00 per year.

7.04. **Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for any of the purposes set forth in paragraph 7.02, provided that any such assessment shall have the assent of two-thirds of the Members voting at a meeting of the membership called for the purpose of considering the special assessment. If Declarant is entitled to three votes per Lot pursuant to Article IV, Section 2 hereof, such special assessment shall also require the assent of Declarant.

7.05. **Individual Assessments.** The Association may levy an individual assessment against a Lot and its Owner for costs incurred by the Association resulting from an Owner's failure to

maintain the Owner's Lot in accordance with this Declaration, the Supplemental Declarations, the Board Rules or the ACC Standards, or to reimburse the Association for any damage to property owned or maintained by the Association caused by an Owner or the Owner's tenants, occupants or guests, or for any other purpose permitted by this Declaration. An individual assessment shall be paid within thirty days after notice thereof is sent to the Owner.

7.06. **Status Certificates.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an authorized representative of the Association setting forth whether the assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

7.07. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to first and second Mortgages made in good faith and for value. Sale or transfer of a Lot shall not affect the assessment lien; provided, however, that the sale or transfer of a Lot by Mortgage foreclosure, or conveyance in lieu thereof, of a first or second Mortgage to which the assessment lien is subordinate shall extinguish the assessment lien. It shall not extinguish the owner's obligation to pay the dues.

ARTICLE VIII
EXTERIOR MAINTENANCE

8.01. **Owner's Responsibility.** Each Owner shall maintain all landscaping and all improvements on the Owner's Lot, including but not limited to the exterior of all structures, all utility lines and drainage facilities, and all other improvements located outside, aboveground or underground in a clean and attractive condition, and in good order and repair consistent with the

approved plans and specifications therefore. The excessive use or maintenance of statues, figurines, flags, banners, streamers, windsocks, birdhouses, birdbaths and other such items which are visible from any street is prohibited. The Board may adopt rules, which may be purely aesthetic in nature, limiting the use, maintenance and location of equipment, decorations and other items on a Lot which are visible from a street.

8.02. **Association's Rights.** The Association may provide the maintenance (including the correction of any violation) required by paragraph 8.01, if the Owner fails to do so; subject, however, to the following provisions. Prior to performing any maintenance on any Owner's Lot, the Board, or a committee appointed by the Board, shall determine that the Lot is in need of maintenance. Except in an emergency, prior to any maintenance work, the Board shall notify the Owner that unless the specified maintenance is commenced within fifteen (15) days and thereafter diligently pursued to completion, the Association may cause the maintenance to be performed and charge the cost thereof to the Owner. Upon the failure of the Owner to act within said period of time or to thereafter diligently pursue the completion of the required maintenance, the Association may enter upon the Lot to cause such maintenance to be performed. The Association may paint, repair, replace and care for exterior building surfaces, roofs, gutters and down spouts; clean and resurface paved access ways and parking areas; trim and care for trees, shrubs, grass, walks and other landscaping and drainage improvements; and provide general cleanup and removal of debris. The Association shall not be liable to the Owner or any other person for trespass or injury to person or property as a result of such actions unless caused by gross negligence or intentional wrongdoing. The cost of any maintenance incurred by the Association under this section shall constitute an individual assessment against the applicable Lot and Owner.

8.03. **Access at Reasonable Hours.** For the purpose of performing the maintenance authorized by this article, the Association may enter upon any Lot and the exterior of any improvements thereon during reasonable hours on any day except Sundays and holidays, except that in an emergency, entry may be made at any time on any day.

ARTICLE IX
ENFORCEMENT

9.01. **Violations.** This Declaration, the Supplemental Declarations, the Board Rules, and the ACC Standards (collectively, the "Governing Documents") are binding upon and shall be observed by the Owners and their tenants, occupants and guests. An Owner is responsible and liable for all violations and losses caused by the Owner's tenants, occupants and guests, notwithstanding the fact that such persons are also fully liable therefore. Declarant, the Association, any member of the ACC, or any Owner may enforce and prosecute violations of the covenants, conditions, restrictions, reservations, easements, liens, charges and other provisions now or hereafter imposed by the Governing Documents, including proceedings at law or in equity. The failure to enforce a particular provision or prosecute a particular violation shall not be deemed a waiver of the right to do so thereafter.

9.02. **Architectural Requirements.** If an Owner fails to comply with any architectural or environmental requirement of this Declaration, the ACC Standards, or the decisions of the ACC, notice of the violation shall be sent to the Owner allowing the Owner thirty days to cure the violation. If the Owner fails to cure the violation, Declarant and the Association may each enter upon the Owner's Lot, make such corrections or modifications as are necessary, remove anything in violation of such requirements, and charge the cost thereof to the Owner. Declarant and the

Association shall not be liable to the Owner or any other person for trespass or damages or injury to person or property in connection with such entry unless caused by gross negligence or intentional wrongdoing. This section is in addition to, and does not limit, the general enforcement provisions of these Declarations.

9.03. **Costs of Enforcement.** Any violator under paragraph 9.01 or paragraph 9.02 shall be liable for all costs reasonably and actually incurred by any authorized person prosecuting a violation of the Governing Documents. The costs may include, but are specifically not limited to the writing delinquency and demand letters, court costs, expenses of litigation, paralegal fees and attorneys' fees including any costs of appeal. Such costs may be recovered regardless of whether suit is filed. If approved by the Board, such costs shall constitute an individual assessment against the applicable Lot and Owner, and may be enforced in accordance with paragraph 9.04.

9.04. **Nonpayment of Assessments.** An assessment, sanction or fine levied against a Lot by the Association becomes delinquent if any part of the monies or any installment thereof is not paid on the date due. If the assessment is not paid within thirty days after the date due, it shall bear interest at the rate of twelve (12%) percent per annum, and may be subject to reasonable late charges established by the Board. The delinquent assessment, fine or sanction, together with interest, late charges, and all costs of collection reasonably and actually incurred by the Association, all of which shall be deemed part of the assessment, shall be secured by a continuing lien on the Lot pursuant to this Declaration. The Association may institute legal action to foreclose the assessment lien against the Lot, and/or to collect against the Owner personally obligated to pay the assessment.

9.05. **Sanctions.** For violations of the Governing Documents, the Board may impose sanctions, including reasonable monetary fines, suspension of an Owner's right to vote in the

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Association, and loss of use and enjoyment of any property owned or maintained by the Association; provided, however, that fines may not be imposed for delinquent assessments, but the Board shall suspend the voting rights in the Association of an Owner who is delinquent in the payment of assessments. The Association may file a lien for any sanctions which remain unpaid after sixty (60) days from the date the Owner, subject to the sanction, is notified in writing, by certified mail, of the amounts, and reason for the sanction.

9.06. **Remedies Cumulative.** The remedies provided by this article and elsewhere in this Declaration are not exclusive remedies, but are in addition to all other rights and remedies available to Declarant, the Association, the ACC, and the Owners now or hereafter provided by the Governing Documents, by law, or otherwise. In the event of a violation or breach of any of the Declarations and Restrictions contained herein by any owner, or agent of such owner, then the Declarant, the Association, the owners of the Lots in Magnolia Glen or any of them jointly or severally shall have the right to proceed at law or equity to compel the compliance to the terms hereof or to prevent the violation or breach of the covenants herein contained or recover damages for such violation. In addition to the foregoing, the Declarant, the Association or any owner of a Lot in Magnolia Glen has the right, whenever there shall have been built on any Lot in the subdivision any structure or other condition created which is in violation of these Restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the Lot owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or conditions contained in these Declarations, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to

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a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement; provided, however, that a violation of any such covenant or restriction shall not constitute a forfeiture or reversion of title hereunder.

9.07. **Exemptions and Immunity.** When Declarant, the Association or the ACC is granted a right or an exemption by this Declaration, or immunity from liability for exercising a right, privilege or remedy granted therein, such right, exemption and immunity shall extend to all persons acting on its behalf, for its benefit, or at its direction, including its directors, officers, committees, members, managers, contractors, agents, employees, successors and assigns.

ARTICLE X **AMENDMENTS AND ANNEXATION**

10.01. **Amendments.** This Declaration may be amended by an instrument signed by not less than two-thirds of the Owners. Any amendment shall also require the written assent of Declarant if it owns any lots at the time of the amendments. Any amendment must be recorded with the applicable authorities. Notwithstanding the foregoing, Declarant shall have the right to annex additional property to Magnolia Glen by the filing of Supplemental Declarations. Declarant shall also have the right to alter the dimensions of a Lot or Lots by the filing of Supplemental Declarations, and revised plats prior to the sale of any such Lot or Lots by Declarant to an Owner.

10.02. **Declarant's Protection.** Notwithstanding any other provision herein, during the Development Period, no provision of this Declaration, any Supplemental Declaration, the Articles or the Bylaws shall be amended, and no rule, restriction or requirement shall be adopted or imposed, without the written approval of Declarant, which directly or indirectly, by its provisions or in practical application, does any of the following: repeals or amends any provision specifically

applicable to the Development Period; repeals or amends Declarant's right to annex additional property to Magnolia Glen; relates exclusively or primarily to Declarant, or which relates to Declarant in a manner different from the manner in which it relates to other Owners; repeals or amends the rights of membership in the Association, or the rights of Declarant as a Member of the Association; repeals or amends the manner of assessment applicable to Declarant or any land owned by Declarant; or repeals or amends any other provision hereof in a manner which would alter Declarant's rights or status hereunder.

10.03. **Annexation.** Additional real estate located adjacent to the subdivision which the Declarant or other owners thereof (with written consent of Declarant) may decide to add to the scheme of the development herein set forth, may be subjected to terms of these Declarations and the same shall be effective upon the filing of the same for the record in the Office of the Clerk of Superior Court of Columbia County, Georgia. Such supplementary declarations or agreements may contain such modifications of the terms of these Declarations as may be deemed necessary or appropriate by the Declarant to reflect the different character, if any, of said additional real estate. In no event, however, shall said supplementary declarations be construed so as to revoke or modify the terms hereof with respect to the property described on the aforementioned plat of Magnolia Glen. In the event that said additional real estate shall be owned by persons or entities other than the Declarant, such owners shall, upon consent of the Declarant and upon the filing of such supplementary declarations, be considered a developer of such additional real estate and shall be entitled to all of the rights and privileges as to such additional real estate as established for the Declarant herein.

ARTICLE XI
SEVERABILITY CLAUSE, EFFECTIVE PERIOD, MISCELLANEOUS CLAUSES

11.01. The invalidation of any one or more paragraphs or portions of these Declarations and agreements by judgment or decree of court of competent jurisdiction shall in no way affect any of the other provisions, which shall remain in force and effect.

11.02. These Declarations and agreements shall be effective immediately upon the filing of the same for record in the Office of the Clerk of the Superior Court of Columbia County, Georgia; shall thereupon run with the land and be binding upon all persons or parties and their successors and assigns claiming title under or through the Declarant, until twenty (20) years from the recordation of this Declaration, and shall be continued automatically and without further notice from that time for a period of ten (10) years thereafter and for successive periods of ten (10) years each without limitation, unless within six (6) months prior to the expiration of any such successive period of ten (10) years thereafter, a written agreement executed by the then record owners of not less than 50% of the Lots then subject to these Declarations shall be placed on record in the Office of the Clerk of Superior Court of Columbia County, Georgia, in which agreement any of the aforementioned covenants, restrictions, reservations, servitude and easements may be changed, modified, waived, or extinguished in whole or in part, as to all or any part of the property then subject thereto in the manner and to the extent therein provided.

In the event any such written agreement of change or modification be fully executed and recorded, the original covenants, restrictions, reservations, servitude and easements as therein modified shall continue in force for successive periods of ten (10) years each, unless and until further changed, modified or extinguished, in the manner herein provided.

So long as the Declarant shall hold title to any portion of the herein above described property, or to any additional real estate added to the scheme of the development herein set forth in accordance with the provisions of the Declarations, the Declarant as well as its successors and assigns, or heirs and assigns, as the case may be, shall have, and is hereby granted, the exclusive right, exercisable at any time and from time to time, to amend or to grant exceptions to these Declarations and to waive, repeal or vary these Declarations in any one or more respects whenever in the sole and controlled opinion of the Declarant, such waiver, repeal or variance is not materially detrimental to the general nature in development of Magnolia Glen as a residential area.

11.03. This Declaration and all covenants, restrictions, agreements, charges and lien rights contained herein shall be binding upon, and shall inure to the benefit of the successors, successors-in-title and assigns of Declarant and all owners, tenants, lessees, invitees and agents of any portion or portions of the Property.

11.04. Article headings are inserted for convenience only and are not intended in any way to define, limit or enlarge the scope or intent of the particular Article or Section to which they refer.

11.05. **Management Agreements.** Any agreement for professional management of the affairs of the Association, or any agreement providing for services to the Association by Declarant, may not exceed one year, and must provide for termination by either party without cause, and without payment of a termination fee, upon thirty days' written notice to the other party.

11.06. **Insurance.** The Association may maintain hazard insurance for property owned or maintained by the Association, public liability insurance covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and liability insurance for its directors and officers. All insurance maintained by the Association

shall be in such amounts and upon such terms and conditions deemed appropriate by the Board. All insurance proceeds payable to the Association shall be used or disbursed in a manner deemed appropriate by the Board.

11.07. **Indemnification.** The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the current Board) to which he may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistakes of judgment, negligent or otherwise, but shall be liable only for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled.

11.08. **Notices.** Any notice required or permitted herein shall be in writing and may be sent to an Owner at his address as shown on the records of the Association, or to any other person at his current address, or his last known address, if his current address is not known. Notices may be sent by United States first class mail, postage prepaid. Such mailing shall be deemed adequate notice, and shall be effective when mailed. Other reliable methods of delivery are permitted. Proof of receipt of notice is not required. It is the duty of each Owner to furnish the Association with the Owner's

address to which notices from the Association may be sent. In an emergency, any type or method of notice may be used which is reasonable under the circumstances.

11.09. **Interpretation and Construction.** The provisions of this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development of Magnolia Glen. The provisions hereof shall be liberally interpreted, and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective.

11.10. **Document Conflicts.** In the event of a conflict between this Declaration or any Supplemental Declaration and the Articles, the Bylaws, the Board Rules or the ACC Standards, this Declaration or the Supplemental Declaration shall prevail. In the event of a conflict between the Board Rules and the ACC Standards during the Development Period, the ACC Standards shall prevail; thereafter, the Board Rules shall prevail.

11.11. **Number and Gender.** Unless a contrary construction is required by the context, for all purposes under this Declaration, the singular number shall include the plural, and the masculine gender shall include all genders.

IN WITNESS WHEREOF, the Declarant and the Association have respectively caused these presents to be executed by and through their duly authorized officers and their seals affixed, or hereunder set their hands and seals, as the case may be, the day and year first above written as the date of these presents.

- - SIGNATURE PAGE IS ATTACHED - -

SIGNATURE PAGE FOR PROTECTIVE COVENANTS MAGNOLIA GLEN

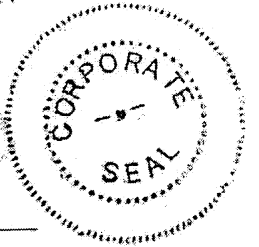
Signed, sealed, and delivered
in the presence of:

Opusifer Samuelson
Unofficial Witness

Dallas W. Surrley
Notary Public
My Commission Expires:
Notary Public, Richmond County, Georgia
My Commission Expires June 21, 2004

MEYBOHM REALTY, INC.

By: *E.G. Meybohm*
E.G. Meybohm
Its: President



MAGNOLIA GLEN PROPERTY OWNERS
ASSOCIATION, INC.

By: *E.G. Meybohm*
As its: *President*

[SEAL]

