

OAK LEIGH PLACE SUBDIVISION

DECLARATION OF RESTRICTIVE COVENANTS

STATE OF FLORIDA

DATE: _____, 2005 

COUNTY OF SANTA ROSA

THE UNDERSIGNED, being the owners and proprietors of the property which in the aggregate comprise that certain tract of land lying and being situated in Santa Rosa County, Florida, and described by metes and bounds in Exhibit "A", attached hereto and made a part hereof for all purposes (hereinafter referred to as the "**property**"), do hereby make the following declaration of covenants as to limitations, restrictions and uses to which the said property may be put, hereby specifying that the covenants contained herein are covenants running with the land and shall be binding upon and inure to the benefit of each and every owner of any properties described or referred to herein and their respective personal representatives, heirs, successors and assigns unless or until amended as herein provided.

ARTICLE I
DEFINITIONS

1.1 **OWNER** - Owner shall mean and refer to the record owner, whether one or more persons, firms, or corporations, of the fee simple title to any Lot which is a part of the property, but excluding those having such interests merely as security for the performance of an obligation.

1.2 **PROPERTY** - Property shall mean and refer to that certain tract of real property hereinabove described and such additions thereto which may be brought within the scheme of this Declaration.

1.3 **LOTS(S)** - Lot(s) shall mean and refer to any number of tract(s) of land, embraced by the Plat of the Property upon which approved residential buildings and appurtenances may be built, excluding those parcels and tracts of land designated on the Plat as streets or common areas.

1.4 **DECLARANT AND/OR DEVELOPER** - Declarant and/or Developer shall mean and refer to Land Development Solutions, Inc., its successors and assigns, being the entity responsible for the platting and general initial development of the subdivision.

1.5 **SUBDIVISION** - Subdivision shall mean and refer to Oak Leigh Place Subdivision, as described in the attached Exhibit "A."

1.6 **COMMON AREAS** – Common Areas shall mean and refer to those areas of land so designated and embraced by the plat of the subdivision.

1.7 **PLAT** - Plat shall mean and refer to the recorded plat or re-plat of the Subdivision initially embraced by this Declaration and showing the Lots, Easements, Streets, and other features relevant thereto and recorded in Plat Book 9 at Page 95 of the public records of Santa Rosa County, Florida.

1.8 **BUILDING COMMITTEE** - Building Committee shall mean and refer to a committee which shall have the authority as granted hereinafter to approve or disapprove, among other things, any development or redevelopment of any part of the Property.

1.9 **STREETS** - Streets shall mean and refer to those areas shown on the plat of the Subdivision which afford vehicular and pedestrian access and circulation of Lots, Easements and the entrances to the Subdivision.

1.10 **APPROVAL** - Shall mean and refer to official favorable action taken by the Building Committee, on matters within the purview of their respective authority to act and decide.

1.11 **EASEMENTS** - Shall mean and refer to the Easements designated as such on the Plat of the Subdivision and intended to be devoted to the benefit and use of Owners, their guests and invitees, and by Declarant (and its successors and assigns) for drainage of surface water, fire, police and other emergency vehicular access and for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems (including water supply systems) and landscaping improvements.

1.12 **ASSOCIATION** - "Association" shall mean and refer to "The Oak Leigh Place Subdivision Homeowners' Association, Inc.," a Florida corporation not-for-profit, its successors and assigns.

ARTICLE II **GENERAL LAND USAGE**

2.1 **LOT USAGE** - All Lots in the Subdivision shall be used and occupied for single family residential purposes only. No owner or other occupant shall use or occupy any Lot, or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single family residence for the Owner or such Owner's tenant and their families. As used herein, the term "**single family residential purposes**" shall be deemed to prohibit specifically, but without limitation, the use of Lots for duplex apartments or other apartment use. No Lot shall be used or occupied for any business, commercial, trade or professional purpose.

2.2 **BUILDING STRUCTURE** - No buildings other than single family dwellings shall be erected, altered, placed or permitted to remain on Lots. The design, location, construction and type of materials to be used in any construction shall be approved by the building committee

pursuant to Article III herein.

2.3 **TEMPORARY AND OTHER STRUCTURE** - No structure of a temporary character, trailer, mobile home, tent, shack, barn, or any other structure or building, other than the residence to be built thereon, shall be placed on any Lot either temporarily or permanently, and no residential building, garage or other structure appurtenant thereto, shall be moved upon any Lot from another location; except, however, that Declarant reserves the exclusive right to erect, place and maintain, such facilities in and upon the Properties as in its sole discretion may be necessary or convenient during the period of and in connection with the constructing of other improvements within the Subdivision. Such facilities may include, but not necessarily be limited to, a temporary construction and/or sales office building, storage area, signs and portable toilet facilities. Declarant and builders shall also have the right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with construction and sales operations in the Subdivision, but in no event, shall a builder have such right for a period in excess of one (1) year from the date of substantial completion of his last residence in the Properties.

2.4 **NUISANCE** - No noxious or offence activity shall be carried on or permitted upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the subdivision or to other owners. No trucks larger than three-quarters of a ton, motor vehicles not currently licensed, heavy construction equipment, house trailers, tractors, commercial vehicles of any kind, machinery, equipment or apparatus shall be permitted to be parked on any Lot, unless screened from public view or in an enclosed garage, or on any street, except passenger cars and trucks not larger than three-quarters of a ton may be parked on the streets in front of a Lot for a period not to exceed twenty-four (24) hours. The use or discharge of firearms on any part of the Property is prohibited. No motor bikes, motorcycles, motor scooters, "go-carts", or other similar vehicles shall be permitted to be operated on any Lot in such a manner as to create a nuisance. Construction equipment, vehicles, apparatus and the like to be used in the construction of a dwelling or improvement thereto may remain on the lot for which it is being used during the time of construction.

2.5 **SIGNS** - No billboards or other advertising sign shall be erected or placed on any Lot, except that any Owner may display on a Lot one (1) sign of not more than six (6) square feet to advertise the Lot and any residence for sale. Declarant reserves the exclusive right to erect, place and maintain a sign not to exceed 32 square feet at any construction site or model home.

2.6 **ANIMALS** - No animals, livestock, horses, poultry or fowl of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats and other household pets may be kept.

2.7 **GARAGE AND REFUSE STORAGE AND DISPOSAL** - All Lots shall at all times be kept in a healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage or waste matter shall be kept in adequate containers constructed of metal, plastic or masonry materials, with tightly-fitting lids, which shall be maintained in a clean and sanitary condition and be screened from public view. No Lot shall be used for open storage of any material whatsoever, if such storage is visible

from the street, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which suitable enclosure on the Lot.

2.8 **SEWAGE DISPOSAL** - No privy or cesspool shall be constructed or used on any Lot.

2.9 **MINIMUM LOT SIZE** - No Lot shall be re-subdivided from the plat to create an additional building site, and no building shall be erected or placed on any Lot having an area less than the amount shown on the recorded plat. Nothing herein shall prevent a lot owner from purchasing two lots for the construction of one home, nor shall lot owners be prohibited from subdividing lots to increase the size of another lot, provided no additional building sites are created.

2.10 **LOT MAINTENANCE** - The Owner or occupants of all Lots shall at all times keep weeds and grass thereon cut in a healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The drying of clothes and the storage of yard equipment and machinery shall be screened from public view.

2.11 **MICROWAVE DISC ANTENNAS** - No microwave disc antenna shall be installed or constructed which is visible from the street in front of the residence which is greater than 24" in diameter. No short wave, broadcast, or amateur radio antenna shall be installed or constructed on any lot.

2.13 **SUBDIVISION SIGN** - A subdivision sign shall be constructed by the Declarant located at the entrance of the community. The association shall be solely responsible for maintaining and repairing said sign, and no one except the association shall have the right to remove, alter, or damage any portion of this sign.

ARTICLE III **ARCHITECTURAL CONTROL**

3.1 **BUILDING COMMITTEE** - The Building Committee shall consist of three members, who shall be appointed by the Developer. The Declarant reserves the exclusive right to appoint the Building Committee until all lots have been sold by the Declarant. The members of the Building Committee shall serve without compensation. After the Declarant has sold all lots, the Board of Directors of the Association shall have the authority to change the membership of the Building Committee.

3.2 **APPROVAL OF PLANS** - No building, structure, fence, wall or other improvements shall be commenced, erected, constructed, placed or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the detailed plans and

specifications therefore shall have been submitted to and approved in writing by the Building Committee.

3.3 **CONSTRUCTION REQUIREMENTS** -

- (a) Only new construction materials (except for used brick) shall be used and utilized in constructing any structures situated on a Lot. All structures shall be of brick, stucco, stone, or cement siding. No residence shall be constructed completely or predominantly of vinyl siding, though vinyl siding in combination with another approved building material may be used. All structures shall have a minimum roof pitch of 5/12. No structure shall be more than two stories in height.
- (b) All Exterior construction on the primary residential structure must be completed in accordance with approved plans not later than twelve (12) months following the commencement of construction. For the purposes hereof, the term "**commencement of construction**" shall be deemed to mean the date on which the foundation forms are set. Construction halted for more than twelve (12) months, or manifestly incomplete after the termination of the twelve (12) month period following the commencement of construction, or abandoned indefinitely, must be removed at the Owner's expense. Such removal shall include all roofs, walls and foundations, and any remaining excavations shall be filled in and natural vegetation allowed to recover.

Notwithstanding the foregoing, the Building Committee may, at its sole discretion, grant an extension in writing to such twelve (12) month period, provided that exterior construction has been diligently pursued and/or the operation of extenuating circumstances warrant such extension.

3.4 **SIZE OF RESIDENCES** - No residential structure erected on any Lot shall have less than 1,250 square feet of livable floor space, exclusive of the area of attached garages, porches, or other appurtenances or appendages.

3.5 **BUILDING LOCATIONS AND SETBACKS** - Unless otherwise provided for on the plat, the front building setback shall be a minimum of twenty feet from the front lot line. Side building setback shall be a minimum of ten percent of the width of the lot at the front building setback line unless otherwise specified in the plat. Rear setback for outbuildings shall be a minimum of ten feet from the rear lot line. For the purposes of this Subsection 3.5, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of a building to encroach upon, or overhang any other Lot. If two or more Lots, or fractions thereof, are consolidated into one single building site, these building setbacks shall be applied to such resultant building site as if it were one original, platted lot.

3.6 **LANDSCAPING, SIDEWALKS, WALLS AND FENCES** - Walls or fences constructed or erected on any Lot shall be wooden or vinyl, privacy fences in a "shadow box" pattern in which both sides of the fence look alike. No wall or fence shall be constructed from the front property line to the front building line. All Lots shall be completely sodded from the front of the residence to the curb. It shall be the Owner's responsibility to maintain any landscaping or fences situated on a Lot so that such improvements remain in an attractive, well kept condition. No fence may be constructed on any lot without first submitting the design, construction and location of the fence to the Building Committee and receiving the written approval of the Building Committee.

3.7 **MINIMUM CONSTRUCTION STANDARDS AND INSPECTIONS** - In addition to compliance with the requirements set forth under this Declaration, any and all improvements on any Lot shall comply with the standards and provision of the Santa Rosa County, Florida Building Code (the "Code"), together with standards and provision which may be imposed by the Santa Rosa County Land Development Code, the Florida Department of Environmental Protection, and Pace Water System, Inc. During all phases of construction and improvements on any Lot, the Building Committee or its designated representative may make periodic inspections for the purpose of determining compliance with the provisions of this Declaration.

3.8 **EROSION CONTROL DURING CONSTRUCTION PERIOD** - Lot owners shall be required to erect and maintain erosion control barricades (as required to contain all sediments on the Lot) during the construction period, including but not limited to the installation and maintenance of silt fencing. Each lot owner shall be responsible for any sediments which leave the owner's lot.

ARTICLE IV **GENERAL PROVISIONS**

4.1 **DURATION** - The covenants and restrictions of the Declaration shall run with and bind the land subject hereto, and shall inure to the benefit of and be enforceable by the Owner(s) of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an initial term of thirty (30) years from the date hereof. During such initial term, the covenants and restrictions of this Declaration may be amended or terminated only if signed by the then Owners of two-thirds (2/3) of all Lots in the Subdivision and property recorded in the appropriate records of Santa Rosa County, Florida. Upon expiration of said initial term, said covenants and restrictions (as amended, if amended) and the enforcement rights relative thereto, shall be automatically extended for a period of thirty (30) years. During such thirty-year extension period, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then Owners of not less than two-thirds (2/3) of all the Lots in the Subdivision and property recorded in the appropriate records of Santa Rosa County, Florida.

4.2 **ENFORCEMENT** - The Declarant, the Association or any Owner shall have the right to enforce the provisions set forth in this Declaration. Enforcement shall be by action of law or in equity against any person or persons violating or attempting to violate any of these provisions

either to restrain the violation thereof or to recover damages from such violations. The party bringing such action or suit shall be entitled to recover, in addition to costs and disbursements allowed by law, and in the event that he is the prevailing party, such sums as the Court may adjust to be reasonable for the services of his attorney.

4.3 **AMENDMENTS BY DECLARANT** - The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.

4.4 **INTERPRETATION** - If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible or more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

4.5 **OMISSIONS** - If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in the Declaration shall be omitted here from, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

4.6 **NOTICE** - Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage prepaid, to the last known address of the person who appears as record owner of a Lot in the Subdivision at the time of such mailing.

4.7 **SEPARABILITY** - Invalidity of any one or more of the covenants, restrictions, conditions or provisions contained in this Declaration or any part thereof, shall in no manner affect any of the other covenants, restrictions, conditions or provisions hereof, which shall remain in full force and effect.

ARTICLE V **MEMBERSHIP AND VOTING RIGHTS**

5.1 **MEMBERSHIP** - The Association shall consist of all Owners of all Lots in the Development. Every Owner of a Lot in the Development shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

5.2 **VOTING RIGHTS** - The Association shall have two classes of voting membership:

Class A. Class A shall be the Owners (with, while a class B member, the exception of Declarant) of all Lots in the Development (as it is constituted from time to time), who shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as determined by the Owners thereof, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The only Class B member shall be Declarant, which shall be entitled to three (3) votes for each Lot owned in the Development (as it is constituted from time to time). The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

5.3 ASSOCIATION - The Association shall be established by the developer, who shall also appoint the initial members of the Board of Directors. These Directors shall serve until such time as the developer or successor thereto sells ninety-five percent (95%) of the subdivision lots to third parties. Upon such sale of 95% of the lots, the developer shall release and exchange its exclusive right to appoint directors.

ARTICLE VI **ASSESSMENTS**

6.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION ASSESSMENTS - The Owner of each Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) an annual assessment; and, (b) any special assessments for capital improvement; such assessments to be established and collected as hereinafter provided. In no event shall Developer be required to pay annual or special assessments. The annual and special assessments, together with interest, costs and reasonable legal fees and expenses, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable legal fees, shall also be the personal obligation of the person(s) who is the Owner of such Lot at the time when the assessment becomes due.

6.2 PURPOSE OF ASSESSMENTS - The assessments levied by the Association shall be used for the following purposes:

- (a) Management, care and maintenance of any common area, any property owned by the Association or in which it has an interest, the signs and entrance ways to the subdivision and signs on any public or private property adjacent thereto or in the same general locality as the development.
- (b) Maintenance and care of lights at the entrances to the subdivision and the street lights of the subdivision, and the payment of all electricity and water bills for operating the same.

- (c) Management, care and maintenance of landscaping and the water sprinkler system located on the rights-of-way within Oak Leigh Subdivision or on any other road or street providing access to the subdivision.

The Association shall have the obligation to maintain all common areas and shall pay all ad valorem property taxes assessed upon them. The Association may fund in a reserve account such sums as it determines in good faith are necessary and adequate to make periodic repairs and improvements to any common areas.

6.3 ANNUAL ASSESSMENTS - Annual assessments shall at a date designated by the Board of Directors and at a rate to be determined by the Board of Directors of the Association, with an initial annual maximum assessment of \$50.00. This annual maximum assessment may be increased by the Board of Directors of the Association from time to time as may be necessary in accordance with the following guidelines:

- (a) The maximum annual assessment may be increased each year by not more than ten percent (10%) above the potential maximum assessment for the previous year without a vote of the membership.
- (b) The Board of Directors of the Association shall fix the annual assessment at an amount not in excess of the potential maximum assessment.
- (c) Regardless of the provisions above, the Association shall be obligated to pay all ad valorem property taxes upon any Common Area, and no limitation above shall ever prohibit the Association from increasing the annual assessment to an amount sufficient to pay such taxes.
- (d) At no point shall the Developer be required to pay either annual or special assessments on lots owned by Developer.

6.4 SPECIAL ASSESSMENTS - In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment per Lot applicable to that year only for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, improvement, management, care or maintenance upon any common Areas, any property owned by the Association or in which it has an interest, of any public or private property adjoining or in the same general locality as the Development, including fixtures and personal property related thereto, provided that any assessment shall have the assent to two-thirds (2/3) of the votes of the Owners then entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of the amount and due date of any special assessment shall be mailed postage prepaid to every Owner subject thereto.

6.5 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER

SECTIONS 3 AND 4 - Written notice of any meeting called for the purpose of taking any action authorized under Sections 3(B), 4 or 7 of this Article shall be sent by United States Mail, postage prepaid, to all Owners (as of ninety (90) days prior to date of mailing such notice) not less than fifteen (15) days nor more than sixty (60) days in advance of that meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, the required quorum at the subsequent meeting shall be one-third (1/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.6 UNIFORM/PRORATE RATE OF ASSESSMENT - Annual and special assessments shall be at a uniform rate for each Lot.

6.7 ANNUAL ASSESSMENT PERIODS AND DUE DATES - The annual assessment shall be assessed on a calendar year basis and is due and payable on such date as set forth by a resolution of the Board of Directors of the Association. The Board of Directors of the Association shall fix the amount of the annual assessment for each Lot in advance of each annual assessment period. Written notice of the annual assessment shall be mailed to every owner. The annual assessment provided herein shall not commence prior to the first day of the first month after this document is recorded in the public records of Santa Rosa County, Florida, and shall commence thereafter as determined by the Association. Upon commencement, the Association is not required to prorate the first year's annual assessment. The Association shall, upon written request and for a reasonable charge, furnish a sealed certificate signed by an officer of the Association stating what assessments are outstanding against any Lot and the due date for such assessment. A properly executed and sealed 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.

6.8 EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION - Any annual or special assessment not paid within thirty (30) days after the due date shall bear a late charge of ten percent (10%) of the assessment amount, plus interest from the due date at the highest legal rate. The Association may, after first giving ten (10) days written notice to the holder of any first mortgage, bring an action at law against the Owner personally obligated to pay the same, record a lien against the property, and/or foreclose the lien against the property. No Owner may waive or otherwise avoid personal liability for the assessments provided for herein by non-use of any Common Area facilities or real property owned by the Association or abandonment of his Lot. In any action to enforce these Restrictive Covenants, the prevailing party may recover reasonable attorney fees from the losing party.

6.9 SUBORDINATION OF ASSESSMENT LIEN TO FIRST MORTGAGES - The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage which was originally recorded as a first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure of such a first mortgage or any proceeding or conveyance in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to the date of such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter coming due or

from the lien thereof.

EXECUTED this the 7 day of February, 2005

WITNESSES

Theresa Kilcrease
Rachel McLeod

OWNER/DECLARANT

LAND DEVELOPMENT SOLUTIONS, INC.

BY: Paul A. McLeod, Jr.
Its: President

STATE OF FLORIDA
COUNTY OF SANTA ROSA

The foregoing instrument was acknowledged before me this 7 day of February, 2005 by Paul A. McLeod, Jr. as President of Land Development Solutions, Inc., a Florida corporation, on behalf of said corporation. He is personally known or has produced _____ as identification.

Theresa L. Kilcrease
Notary Public
My commission expires: 6/29/08

Theresa L. Kilcrease
Notary Public, State of Florida
Commission No. DD 299369
My Commission Expires 6/29/08