

**Declaration
Of
Covenants, Conditions, and Restrictions
Easements, Charges and Liens**

Revised June 2016

**TIMBER
COVE**

Property Owners Association

**TIMBER
COVE**

Property Owners Association, Inc.

Post Office Box 5983

Granbury, Texas 76049

Timber Cove

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS EASEMENTS, CHARGES AND LIENS

[Restated 6/2016]

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS EASEMENTS, CHARGES AND LIENS

TIMBER COVE

STATE OF TEXAS §
KNOW ALL MEN BY THESE PRESENTS COUNTY OF HOOD §

Preamble

Whereas, Jerry M. Henson and Betty Henson as “Developer” was the owner of that certain land known as Timber Cove subdivision, consisting of 72.339 acres of land situated in Hood County, Texas the original plat of which was filed at Slide B-40 of the Plat Records of Hood County Texas and a re-plat thereof filed at Slide B-72 of the Plat Records of Hood County, Texas; adopted and filed restrictions and covenants applicable to such property prior to sale of any lots in Timber Cove: “Declaration of Covenants, Conditions and Restrictions, Easements, Charges” [“Restrictions”] and liens being recorded at Vol. 1625, page 0404 of the Real Records of Hood County, Texas; and Whereas, such Restrictions were subsequently amended by agreement of all property owners or in accordance with procedures set forth in the Restrictions, such amendments being duly recorded in the Real Property Records of Hood County, Texas as follows:

1. Amendment of Restrictions for Timber Cove by Developer dated April 8, 1999 recorded at Volume 1633, page 0729
2. Second Amendment to Restrictions for Timber Cove by all Lot Owners (Developer and Owner of Lot 31R) dated March 10, 2000, recorded at Volume 1687, page 0118
3. Third Amendment to Declaration of Covenants, Conditions and Restrictions, Easements, Charges and Liens for Timber Cove by all Lot Owners (Developer and Owners of lots 7R,31R,46R,71R,72R,76R,77R, 80R and 89R) recorded on June 8, 2000 at Volume 1696, page 0491;
4. Timber Cove POA - Board of Director’s Certificate of Amendment to the Declaration, Conditions and Restrictions, Easements, Charges and Lien dated October 31, 2012 and recorded at Document #2012-0012054 of the Real Records of Hood County, Texas; and

Whereas, the Developer, via his assignees and successors has transferred and assigned rights to the Timber Cove Property Owners Association, Inc. following conveyance of Developer’s last tract owned covered by the Restrictions, such transfer being dated June 13, 2006 and being recorded at Volume 2208, page 0433, the Real Property Records of Hood County, Texas; and

Whereas, the purpose of the Restrictions was to establish a uniform plan for the subdivision and enhance and preserve the value, desirability and attractiveness of the property for present and future owners; and

Whereas, the Timber Cove Property Owners Association, Inc. and the requisite super majority of owners of property in the Timber Cove subdivision desires to continue, restate and amend the Restrictions applicable to property in the Timber Cove subdivision so that all restrictions applicable to the property are contained in a single instrument and outdated provisions related to the Developer and the development period are omitted;

NOW THEREFORE, the Timber Cove Property Owners Association, Inc. hereby confirms and publishes that the following restated Restrictions applicable to the Timber Cove subdivision have been duly adopted and amended by the requisite super majority of owners of property in the Timber Cove subdivision in strict compliance with the provisions for amendment to the Declaration and Restrictions; and restate, replace and amend all prior recorded restrictions and covenants so that the provisions of this Restated And Amended Covenants, Conditions and Restrictions [“CCRs”] shall, after recordation in the Official Public Records of Hood County, Texas, govern the use and enjoyment of all property within the Timber Cove subdivision of Hood County, Texas.

ARTICLE 1

DEFINITIONS

Section 1.1 “Accessory Building” shall mean and refer to a subordinate building, attached to or detached from the Dwelling (as hereinafter defined).

Section 1.2 “Association” shall mean and refer to the Timber Cove Property Owners Association, Inc. [“TCPOA”] and its successors and assigns.

Section 1.3 “Board of Directors” shall mean and refer to the Board of Directors of the Association.

Section 1.4 “Builders” shall mean and refer to persons or entities that purchase tracts and build speculative or custom homes thereon for third party purchasers.

Section 1.5 “Common Property” means all real property (including any improvements thereon) within the Subdivision owned by the Association for the common use and enjoyment of the Owners.

Section 1.6 “Contractor” shall mean and refer to the person or entity with whom an Owner contracts to construct a residential dwelling on such Owner’s Tract.

Section 1.7 “Dwelling” shall mean and refer to a building having accommodations for and occupied and by not more than one family (as hereinafter defined).

Section 1.8 “Front Yard” shall mean and refer to a space on a Tract facing a Street (as hereinafter defined) and extending across the front of the Tract between the Side Lines (as hereinafter defined) and being the horizontal distance between the Street Line (as hereinafter defined) and the Dwelling or any projection thereof other than the projection of the usual steps and eave overhangs.

Section 1.9 “Garage” shall mean and refer to an Accessory Building or a portion of a Dwelling in which motor-driven vehicles are stored.

Section 1.10 “Height” shall mean and refer to the measurement from the average established grade at the Street Line abutting the Tract or, if higher, from the highest natural ground level of the two points where the Front Setback Line (as hereinafter defined) intersects the two Side Lines of the Tract, to the highest point of the Improvement being measured.

Section 1.11 “Timber Cove” shall mean and refer to all sections of Timber Cove hereafter made subject to the jurisdiction of the Association.

Section 1.12 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Tract which is a part of the Subdivision, including (i) contract sellers (a seller under a Contract-for-Deed), but excluding those having such interest merely as a security for the performance of an obligation.

Section 1.13 “Plat” means the replat of Timber Cove, recorded in Slide B-72, Plat Records, Hood County, Texas, as it may be amended from time to time.

Section 1.14 “Rear Line” shall mean the opposite of Street Line.

Section 1.15 “Rear Yard” shall mean and refer to a space extending across the rear of a tract from one Side Line to the other Side Line and being the horizontal distance between the Rear Line and the Dwelling or any projection thereof other than the projection of the usual steps and eave overhangs.

Section 1.16 “Side Line” shall mean and refer to any boundary line of a Tract which is not a Street Line or Rear Line.

Section 1.17 “Street” means each private street or roadway noted on the Plat.

Section 1.18 “Street Line” shall mean and refer to that boundary line of a Tract which is also the boundary line of a Street.

Section 1.19 “Tract” shall mean and refer to any plot of land identified as a lot(s) on the Plat. For purposes of this instrument, “Tract” shall not be deemed to include any portion of the “Common Green” or “Common Property” (defined herein as any Common Green or Common Property shown on the Plat) in the Subdivision, regardless of the use made of such area.

Section 1.20 “Restrictive Covenants” **refers to this restatement and amendment of covenants, conditions and restrictions applicable to property located in Timber Cove subdivision of Hood County, Texas; and the covenants, conditions and restrictions previously applicable to such property cited in the Preamble hereto;**

ARTICLE II

RESERVATIONS, EXCEPTION AND DEDICATIONS

Section 2.1 Recorded Subdivision Map of the Property. The Plat of Timber Cove designates private streets (which may be used for ingress and egress by each Owner to the Tract it owns) and certain easements, which may be utilized for the purposes and by the persons or entities as specifically described in the Plat or these Restrictive Covenants. The Plat further establishes certain restrictions applicable to Timber Cove. All dedications, restrictions and reservations created herein or shown on the Plat, replats or amendments or the Plat of Timber Cove recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by any **Grantor**, whether specifically referred to therein or not.

Section 2.2 Easements. The Association reserves for itself and not to the public, its successors or assigns, a five (5) foot utility easement along each side of the side lot lines and ten (10) foot utility easement along the rear lot lines of each tract; further the Association reserves for public use the easements shown on the Plat for the purpose of constructing, maintaining and repairing a system(s) of electric lighting, electric power, telegraph and telephone line or lines, storm surface drainage, cable television, or any other utility the Association sees fit to install in, across and/or under. All utility easements may be used for the construction of drainage swales in order to provide for improved surface drainage of Common Property and/or Tract(s). Any utility company serving shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither The Association nor any utility company, political subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done to trees and lawns or any agents, employees, or servants, to fences, shrubbery, and other property of the Owner on the property covered by said easements.

Section 2.3 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Developer or its successors in title to any of the Tracts by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, electric lighting, electric power, telegraph or telephone purpose and other easements hereafter granted affecting the Tracts. The Owners of the respective Tracts shall not be deemed to own pipes, wires, conduits or other service lines running through their Tracts which are utilized for or service other Tracts, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Tract.

Section 2.4 Utility and other Easements. Non-exclusive utility, water line, drainage and slope easements for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area as described or shown on the Plat are reserved as described in Section 2.2 above, and no Improvement or Structure shall be constructed or placed thereon without the express prior written consent of the Architectural Control Committee. Full rights of ingress and egress shall be had by the Association and all utility and CATV companies serving the Subdivision, and their respective successors and assigns, at all times over the Subdivision for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction (excluding, however any driveway, fence or other Improvements or Structures which has been

heretofore specifically approved by the Architectural Control Committee) that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility.

Section 2.5 Gated Access. The Association may arrange for the utilization of a mechanical crossing gate(s) at the entry point to Timber Cove. The Association hopes that the gate(s) and private streets concept will discourage undesired and unauthorized vehicular traffic within Timber Cove and foster a higher degree of peace and tranquility. However, Timber Cove is not entirely encompassed by a fence nor are there any plans for such an enclosure. Also, the gate(s) program is not designed to restrict or impede pedestrian traffic into, within or out of Timber Cove. Although The Association reasonably believe that the existence and visibility of controlled access points may discourage the commission of criminal acts (e.g., burglary, theft, etc.) within Timber Cove, nevertheless the Association does not warrant or guarantee that: (a) the gate(s) arrangements are sufficient and adequate to diminish or eliminate the commission of crimes against persons or property; and (b) such acts will not be attempted or actually occur within Timber Cove. These community services arrangements are not designed or intended to replace the conventional law enforcement and fire protection and paramedical services available from the County and others. Each owner releases and holds The Association harmless from any claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the private streets within Timber Cove, including, without limitation the functioning (whether malfunctioning or nonfunctioning-) of the mechanical gate access devices. Each Owner will cooperate with Declaration and the Association in connection with the establishment and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within Timber Cove 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 any private streets and other Common Property within Timber Cove.

Section 2.6 Private Streets. The entry gate(s) and streets, within Timber Cove are “private” and constitute a portion of the Common Property which is subject to the jurisdiction and administration by the Association. In addition to the other provisions appearing within this Article, the Board of Directors of the Association is specifically authorized to recommend, adopt, implement and enforce rules, regulations, mechanisms and procedures governing use of the entry gate(s) and streets covering items such as (but not necessarily limited to):

- (a) Identification and entry programs for Owners, Residents and 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 area;
- (c) Signs and graphics to provide announcements to unauthorized personnel concerning potential criminal trespass matter;
- (d) A “fines” system through which the Association can levy and collect fines from its Members for violations of the applicable rules and regulations; and

- (e) Disclaimers of liability for any and all matters or occurrences on or related to the Common Property.

ARTICLE III

USE RESTRICTIONS

Section 3.1 Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on any Tract other than one dwelling unit per each Tract to be used for residential purposes. All dwellings, detached garages, workshops, and out buildings must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. The term “dwelling” does not include single or double wide manufactured homes, and said manufactured homes are not permitted within the Subdivision. All **new** constructed dwellings on lots numbered 57R through 87R must have at least 3200 square feet of living area, on lots numbered 1R through 56R and lots 88R thru 96R inclusive, must have at least 2500 square feet of living area, excluding porches, and a minimum of a two car garage which may be detached. The improvements must be built with new construction material with exteriors being 95% masonry, examples (brick or stone), glass or natural wood products (i.e. no aluminum or asbestos siding and no plywood) and natural wood products shall not exceed 5% of such 95%. As used herein, the term “residential purposes” shall be construed to prohibit mobile homes or trailers being placed on said tracts, and to prohibit the use of said tracts for duplex houses, condominiums, townhouses, or apartment houses. All tracts shall be for residential purposes and all homes must be site constructed. Any building, structure or improvement commenced on any tract shall be completed as to exterior finish and appearance within six (6) months from the commencement date.

The following provisions shall apply to all construction:

- (a) **Masonry.** Fiber/cement product such as Hardie Board shall not be considered Masonry, but can be used as fascia or trim material between the walls and the edge of the roof. **The decision of the Architectural Control Committee as to what materials constitute masonry shall be binding.**
- (b) **Roofing.** Roofing must be composition or metal which mimics composition shingle. No tile, cedar shake or tin roofs are allowed.
- (c) **Out buildings, or detached garages.** All out buildings or detached garages must be of similar construction to the primary residence. Similar means same rock/brick percentages and colors, including like roof pitches. Pergolas, gazebos, outdoor kitchens and like structures are to be constructed of Natural Wood or masonry products.
- (d) **Swimming Pools.** Swimming Pools must be in-ground only, must have a secure fence and plans must be approved by the architectural control committee in advance. For approval of swimming pool plans, the pool area must be completely enclosed by fence of not less than 4 feet in height with a lockable gate. The retaining wall on the water front properties is

considered a contained side and does not require a separate fence on the wall. No aboveground pools are allowed.

Section 3.2 Composite Building Site. Any Owner of one or more adjoining Tracts (or portions there) may, with the prior written approval of the Architectural Control Committee and Hood County, consolidate such Tracts or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back lines shall be measured from the resulting side property lines rather than from the Tract lines as indicated to the Plat.

Section 3.3 Location of the Improvements upon the Tract. The setback requirements shall be as follows: (1) Front: The minimum distance from the front building line - 25 feet; (2) Side Yard: The minimum distance from the side building line to the property line - 7 feet; (3) Rear Yard - 20 feet. (4) Height Regulations: The maximum height shall be two and one-half stories, but not to exceed forty feet per dwelling. Height limit for any accessory building shall be twenty-five feet. All dwellings must be connected to the sewer system provided by the Municipal Utility District (MUD) and will be subject to use and tap fees established by the MUD, and all such dwellings must be served with water and electricity. No water well may be drilled within the Subdivision.

Section 3.4 Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other out building shall be maintained or used on any Tract at any time as a residence, either temporarily or permanently.

Section 3.5 Walls and Fences. Walls and fences, if any, must be approved prior to construction by the Architectural Control Committee and shall be no closer to the street property lines than the front line of the house or 25 feet from the property line of a bordering street. A maximum Height of any fence shall not exceed six (6) and must be constructed of wood, masonry, vinyl material, or decorative wrought iron. No wire or chain-link fencing is allowed. Additionally, all lots whose rear property line connects in whole or in part to Lake Granbury shall have (1) no solid fence of any type within thirty (30) feet of the lake; (2) must be wrought iron (or similar) or masonry and/or both and (3) must be open and decorative in nature. All Lots with rear property lines abutting Montego Bay, Lakes of Timber Cove or Port Ridglea East, may have a privacy fence with a maximum fence height of eight (8) feet along such rear property line. An easement is reserved in favor of The Association for the placement and maintenance of a decorative fence along the rear of Lots 18, 19, and 20 and the side of Lot 1. No other fences may be erected other than this decorative fence in the rear of the above described lots which act as cross-fences between the side lot lines unless approved by the Architectural Control Committee.

Section 3.6 Prohibition of Offensive Activities. No activity, whether for profit or not, shall be conducted on any tract which is not related to single family residential purposes, unless said activity meets the following criteria: No Owner, Resident or Member shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any lot or within any residence which would: (a) attract automobile, vehicular or pedestrian traffic to the Lot; (b) involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Subdivision. The traffic restriction is waived in regard to the customary sales activities required to sell homes in the Subdivision. The discharge or

use of firearms is expressly prohibited. The use of outdoor **intrusive** lighting is expressly prohibited. The Board of Directors of the Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.

Section 3.7 Garbage and Trash Disposal. Garbage and trash or other debris accumulated in this Subdivision shall not be permitted to be dumped at any place upon adjoining land where a nuisance to any residence of this Subdivision is or may be created. No tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. In the event of the failure of Owner to comply with the above requirements after ten (10) days written notice thereof, the Association or their designated agents may, without liability to the Owner, Contractor or any occupants of the Tract in trespass or otherwise, enter upon (and/or authorize one or more others to enter upon) said Tract, cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration. Payment for the charges shall be payable on the first day of the next calendar month. **Owners of occupied residences must maintain regular trash pickup service. To limit commercial vehicles on neighborhood roads, Owners are encouraged to use trash service recommended by Association.**

Section 3.8 Vehicles All vehicles operating on Roads within Timber Cove must be street legal with current registration and license. The only exceptions are golf carts and side-by-side. **Driving any motorized vehicle, including golf carts and side-by-side on Roads within Timber Cove without a valid motor vehicle driver's license is prohibited.** With the exception of golf carts and side-by-sides, only licensed and street legal vehicles can be parked in view of the street. No lot shall be used as a depository for abandoned or junk motor vehicles. This includes all non-operative vehicles. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept or allowed to remain on any lot. Boats, boat trailers, RVs and travel trailers may be stored on lots after the residence is constructed, however, they must be stored in the side yard and not behind the house on waterfront tracts and must be parked no closer than the front line of the house to the street. On all other tracts, boats, boat trailers, RVs and travel trailers must be stored in the side or back yard and must be parked no closer than the front line of the house to the street.

Section 3.9 Signs. No signs, advertisement, billboards or advertising structure of any kind may be erected or maintained on any Tract without the consent in writing of the Architectural Control Committee except one (1) professionally made sign not more than twenty-four (24) inches by twenty-four (24) inches, advertising an Owner's Tract for sale or rent, and one (1) professionally made sign, not more than twelve (12) inches wide by twenty-four (24) inches long identifying the tract owner's name or names. All other signs are prohibited. The Association or any member of such Committee shall have the right to remove any such sign, advertisement or billboard or structure which is placed on any Tract in violation of these restrictions, and in doing so, shall not be liable, and are hereby expressly relieved from, any liability for trespass or other tort in connection therewith, or arising from such removal. **This provision does not apply to political signs to the extent specifically authorized by state law [Texas Property Code Section 202.009(a)].**

Section 3.10 Garages. Every residence shall have and maintain a garage attached to the residence large enough to accommodate under roof a minimum of two (2), but not more than three (3) full-sized automobiles. No garage shall be permanently enclosed for conversion to any other use. Open car ports are not permitted, unless special design circumstances warrant their use, in which case permission must be obtained in writing from the Architectural Control Committee. All garages in the Subdivision will be constructed with the entrance into the garage and the garage doors facing and parallel with the side lot lines of the Tract or facing and parallel with the rear lot lines unless prior permission is obtained in writing from the Architectural Control Committee. Each Owner, member or resident shall refrain from performing repairs or maintenance to any vehicle outside of the garage or visible from the street. Vehicles shall not be parked on any non-paved portion of any Lot.

Section 3.11 Retaining Walls. Retaining Walls of any kind including those along the waterfront, must be approved prior to construction by the Architectural Control Committee and shall be only constructed from masonry (ie.) **rock, brick or stone.**

Section 3.12 Boat Dock. Because the channel has been dredged to approximately fifty (50) feet from retainer walls in order to allow for large boats to navigate the channel, no boat docks shall exceed twenty four (24) feet out into the lake from the shore line. Boat docks over twenty four (24) feet shall run parallel with the shore line. All boat docks must be approved by the (BRA) Brazos River Authorized and the Architectural Control Committee. Floating Boat docks are not allowed.

Section 3.13 Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Tract. Dogs, cats, or other common household pets may be kept on a Tract. Dogs must be kept in a kennel, dog run, or fenced in area that confines said dog(s) to that area, and the containment area must be approved by the Architectural Control Committee. Dogs will not be permitted to run loose in the subdivision and must be vaccinated for rabies in accordance to state law. (Invisible fences are not deemed as confinement of a dog.) Pet owners or guest must not allow animal solid waste to be the left on Timber Cove common areas or roadways or other members property. Pet owners should take measures to ensure their dogs are not a nuisance with excessive barking, (excessive defined as the majority of the day, most nights, etc.) or offensive odors from their yards.

Section 3.14 Mineral Development. No commercial oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Tract. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained or permitted upon any Tract.

Section 3.15 Drainage. Natural established drainage patterns of streets, tracts or roadway ditches, or designated drainage ditches and creeks will not be impaired by any person or persons. Driveway culverts must be installed and will be of sufficient size to afford proper drainage of ditches without backing water up into ditch or diverting flow. Drainage culvert installation is subject to the inspection and approval of the Architectural Control Committee or its agent and Hood County and must be installed prior to any construction on the Tract. All driveways must be constructed in accordance with standard detail adopted by the Architectural Control Committee.

Property Owner or Resident cannot redirect or cause to be redirected the natural water flow to a neighboring lot except for the development planned drainage.

Section 3.16 Duty of Maintenance. Owners and occupants (including lessees) of any Tract shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Tract so owned or occupied, including improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following:

- (a) Prompt removal of all litter, trash, refuse and waste
- (b) Lawn mowing; lots and lawns should be mowed on a regular basis and kept in a manicured state, ie., **lots with residences** no longer than six (6) inches and **unimproved** lots no longer than nine (9) inches
- (c) Tree and shrub pruning
- (d) Watering
- (e) Keeping exterior lighting and mechanical facilities in working order
- (f) Keeping lawn and garden areas alive and attractive; with reasonable weed control.
- (g) Keeping driveways in good repair
- (h) Complying with all government health and policy requirements
- (i) Repair of exterior damage to improvements, including fencing and retaining walls
- (j) Eliminate standing water and any mosquito breeding environment
- (k) Keep all drainage easements on or across an owner's property free from obstruction that might hinder the flow of drainage water

Section 3.17 Enforcement. If, in the opinion of the Board of Directors or the Committee any such Owner or occupant (including lessees) has failed to comply with any of the foregoing restrictions or has failed in any of the foregoing duties or responsibilities, then the Committee shall deliver to such Owner or occupant (including lessees) written notice of such failure. Such Owner or occupant (including lessees) must within ten (10) days; five (5) days with any landscaping issues; from and after delivery of such notice, comply with the restrictions and/or perform the care and maintenance required. Should any such Owner or occupant (including lessees) fail to fulfill this duty and responsibility within such period, then the Association's Board of Directors for their designated agents are hereby authorized to enter onto the premises and correct such violations and perform such care and maintenance as necessary without any liability for damages for wrongful entry, trespass, or otherwise to any person. The Owners and occupants (including lessees) of any Tract on which such work is performed shall promptly reimburse the Association for such cost. If such Owner or occupant (including lessees) shall fail to Reimburse the Association within thirty (30) days from and after delivery by the Board of Directors of an invoice setting the costs incurred by the Association for such work, then said indebtedness shall be a debt of the Owner and Occupant (including lessees) jointly and severally. **To the extent the foregoing provision is inconsistent with the enforcement provisions of the Texas Property Code (specifically, Chapter 209), the Association will follow all statutory requirements.**

ARTICLE IV

ARCHITECTURAL CONTROL COMMITTEE

Section 4.1 Basic Control.

- (a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereof, with the exception of landscaping, (excluding, painting or staining as long as the original or similar color is maintained). any addition or exterior alteration made thereto after original construction, or demolition or destruction by voluntary action made thereto after original construction, on any Tract in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Architectural Control Committee of the construction plans and specifications for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action.
- (b) Each application made to the Committee under Section 4.2 below, shall be sent to all committee members of the architectural control committee, **including** sets of plans and specifications for all proposed construction (initial or alteration) to be done on such Tract, including plot plans showing location on the tract as well as a water drainage plan.

Section 4.2 Architectural Control.

- (a) The authority to grant or withhold architectural control approval as referred to above is vested in the Architectural Control Committee, the members of the Architectural Control Committee shall be selected by the Board of Directors of the Association and must have a Board of Directors liaison. The term "Committee," as used in this Declaration, shall mean Architectural Control Committee selected by the Board of Directors of the Association.
- (b) The Board of Directors of the Association shall select three (3) individuals to serve as members of the Architectural Control Committee. Each member of the Committee selected by the Board of Directors must be an Owner.

Section 4.3 Effect of Inaction. Approval or Disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration shall be in writing. In the event that the Committee) fails to approve or disapprove in writing any plans and specifications and plot plans received by it in compliance with the preceding provisions within thirty (30) days following such submissions final required plans and documents such plans and specifications and plot plan shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof. The thirty (30) days referred to above is applicable after all modifications or revisions have been submitted to the Architectural on Control Committee. All application approvals will expire if no action has been initiated within 60 days.

Section 4.4 Effect of Approval. The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Committee that the terms and

provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reasons of the good faith exercise thereof.

Section 4.5 Variance. It is the responsibility of the entity requesting approval to identify to the Committee any known variations to these restrictions. The Committee may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Committee when circumstances such as topography, natural obstructions, Tract configuration, Tract size, hardship, aesthetic or environmental considerations may require a variance. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance effect in any way the Owner's obligation to comply with all governmental laws and Hood County regulations affecting the property concerned and the Plat. **A variance to the Restrictions may not be granted by inaction of the Committee under Section 4.3.**

ARTICLE V

TIMBER COVE PROPERTY OWNERS ASSOCIATION

Section 5.1 Membership. Every person or entity who is a record owner of any Tract which is subject to the Maintenance charge and other assessments provided herein, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. Owners shall have one membership for each Tract owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the Tracts. Regardless of the number of persons who may own a Tract (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Tract.

Section 5.2 Non-Profit Corporation. Timber Cove Property Owners Association, Inc., a nonprofit corporation, has been organized and it shall be governed by the Articles of Incorporation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 5.3 Bylaws. The Association has adopted Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Tracts and Common Property, provided that the same are not in conflict with the terms and provisions hereof. It is the responsibility and authority of the Board of Directors to revise and update the TCPOA Bylaws.

Section 5.4 Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Property and such right shall be appurtenant to and shall pass with the title to every assessed Tract, subject to the following provisions:

- a. the right of the Association, with respect to the Common Property, to limit the number of guest of Owners.
- b. the right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Property.
- c. the right of the Association, in accordance with its Articles and Bylaws, to (i) borrow money for the purpose of improving and maintaining the Common Property and the facilities and (ii) mortgage the Common Property; however, the rights of the mortgagee of the Common Property shall be subordinate to the rights of the Owners under this Declaration.
- d. the right of the Association to suspend the members and the "Related Users" right to use any recreational facilities within the Common Property, after notice and hearing by the Board of Directors, for the infraction or violation by such Member or Related User of this Declaration or the "Rules and Regulations" as herein after defined, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation.

ARTICLE VI
MAINTENANCE FUND

Section 6.1 Maintenance Fund Obligation. Each Owner of a Tract by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association an annual maintenance charge (the Maintenance Charge), and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Tracts and shall be a continuing lien upon the property against which each such Maintenance Charge and other charges and assessments are made.

Section 6.2 Basis of the Maintenance Charge.

- a. The Maintenance Charge referred to shall be used to create a fund to be known as the Maintenance Fund, which shall be used as herein provided; and each such Maintenance Charge must be paid by 31 January of each year. If an Owner owns more than one (1) Tract, then the Owner shall pay a Maintenance Charge for each Tract owned. If an Owner obtains consent from the Committee for a composite building site pursuant to Section 3.2 hereof, then the composite building site shall, for this purpose, be considered one Tract beginning on the date that the improvements thereon are substantially complete.
- b. Any Maintenance Charge not paid by the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law, and applicable late fees. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owner's Tract. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Property or recreational facilities available for use by Owners of the Subdivision or by the abandonment of his Tract.
- c. The exact amount of the Maintenance Charge applicable to each Tract will be determined by the Association. All other matters relating to the Maintenance Charge and the collection, expenditures and administration of the Maintenance Fund shall be determined by the Association or the Board of Directors of the Association, subject to the provision hereof.
- d. The Association, shall have the further right at any time, with a majority vote of a quorum, as defined in Section 8.2 of all association members, to adjust or alter said Maintenance Charge from year to year as it deems proper to meet the reasonable operation expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder.

Section 6.3 Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge, and other charges and assessments hereby levied, each Owner of a Tract in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Tract which may be judicially foreclosed or by non-judicial foreclosure/expedited foreclosure and pursuant to the provisions of Sections 51.002 and 209.0091-92

of the Texas Property Code (and successor statutes); and each such owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of written instrument executed by the President or any Vice-president of the Association and filed for record in the Real Property Records of Hood County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by Sections 51.002 and 209.0091 of the Texas Property Code (as then amended). Upon request by the Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as amended, and shall convey such Tract to highest bidder for cash by the General Warranty Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.03 to comply with the provisions of said Sections 51.002 and 209.0091-92 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Sections of the Texas Property Code hereafter, **the statutory requirements and procedure then in effect shall be followed.**

Section 6.4 Notice of Lien. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim or lien against the Tract of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs or amount of the claim of delinquency, (c) the interest and costs of collection which have accrued thereon, (d) the legal description and street address of the Tract against which the lien is claimed and (e) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

Section 6.5 Liens Subordinate to Mortgages. The lien described in this Article VI shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or any other third party lender, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Tract and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Tract who obtains title to such Tract pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall title to the Tract free and clear of any claims for unpaid Maintenance Charges or other charges of assessments against such Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such person or entity acquiring title to a Tract from liability for any Maintenance Charge or other charges or assessments thereafter becoming due or from the lien thereof. Any other sale or transfer of a Tract shall not affect the Association's lien for Maintenance Charges or other charges or assessments. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of the lien described in Section 6.01 hereof, which notice shall be sent to the nearest office of such mortgagee by prepaid United States registered or Certified mail, return receipt requested, and shall contain a statement of delinquent Maintenance Charges or other charges or assessments upon which the proposed action is based provided, however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

Section 6.6 Purpose of the Maintenance Charge. The Maintenance Charge levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners of the Subdivision. In particular, the Maintenance Charge shall be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties described in Article VIII, including the maintenance of any Common Property, Private Streets, Gate(s), and any Drainage Easements and the establishment and maintenance of a reserve fund for the maintenance of any Common Property. The Maintenance Fund may be expended by the Association for any purposes which, in the judgment of the Association, will tend to maintain the property values in the subdivision, including, but not limited to providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Property as may from time to time be authorized by the Association. Except for the Association's use of the Maintenance Charge to perform its duties described in this Declaration and in the Bylaws, the use of the Maintenance Charge for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 6.7 Exempt Property. The following property subject to this Declaration shall be exempt from the Maintenance Charge and all other charges and assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Property and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas; however, no land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge.

Section 6.8 Handling of Maintenance Charges. The collection and management of the Maintenance Charge or other charge or assessment levied hereunder shall be performed by the Association, Owners shall be provided at least annually information on the Maintenance Fund.

ARTICLE VII

DUTIES AND POWERS OF THE PROPERTY OWNERS ASSOCIATION

Section 7.1 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Common Property and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the association as set forth in this Declaration.

Section 7.2 Duty to Manage and Care for the Common Property. The Association shall manage, operate, care for, maintain and repair all Common Property and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Property shall include, but not be limited to the following: establishment, operation and maintenance of a security system, if any for the Subdivision; management, maintenance, repair and upkeep of the subdivision entrances and other Common Property.

Section 7.3 Other Insurance Bonds. The Association shall obtain such insurance as may be required by law, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Section 7.4 Duty to Prepare Budgets. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all "Common Property."

Section 7.5 Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

Section 7.6 Duty to Provide Annual Review. The Association shall provide for an annual unaudited independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same.

Section 7.7 Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Committee as elsewhere provided in Article IV of this Declaration.

Section 7.8 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on the Common Property and may demolish existing improvements.

Section 7.9 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations (“Rules and Regulations”), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Property, and the use of any other property, facilities or improvements owned or operated by the Association.

Section 7.10 Power to Enforce Restrictions and Rules and Regulations. The Association (and any Owner with respect only to the remedies described in (ii) or (iii), below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Member and each Related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of Rules and Regulations of the Association by any one or more of the following means: (i) By entry upon any property within the Subdivision after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice (written or oral) to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the Owner or any other person), without liability by the Association to the Owner thereof, for the purpose of enforcement of this Declaration or the Rules and regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations; (iii) by exclusion, after notice and hearing, of any Member or Related User from use of any recreational facilities within the Common Property during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case exclusion shall continue for so long as such breach continues; (iv) by levying and collecting, after notice and hearing, an assessment against such Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User which assessment reimbursed the Association for the costs incurred by the Association in connection with such breach; (v) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or a Related User, and (vi) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney’s fees incurred by the Association with respect to exercising such remedy. Before the Board may invoke the remedies provided above, it shall give registered notice of such alleged violation to [the] Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Board’s right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

Section 7.11 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, water facility and other such easements in, on, over or under the Common Property.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 Term. The provisions hereof shall run with all property in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period twenty (20) years from the date this **restated** Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each; **unless amended or terminated as provided by Section 8.2.**

Section 8.2 Amendments. This Declaration may be amended or changed, in whole or part, after written approval of a Proposal for Amendment of at least two-thirds of a Quorum of the owners eligible to vote. A “Quorum” of Owners eligible to vote is set at (46) forty-six Owners.

Owners may consent to their support or disapproval of a Proposal for Amendment by signing and dating a printed-paper ballot. Ballots will be provided by the Board of Directors in printed form or as a computer form that can be downloaded and printed by the Owner.

A notice of the Proposed for Amendment shall be published in writing to each Owner at least 15 days before a vote is taken on the Proposal for Amendment. The notice of the Proposal for Amendment may contain any applicable explanation about the proposed amendment, as approved by the Board of Directors. The notice of the Proposal for Amendment shall give start and end dates for voting, but in no event shall such dates exceed the 60th day after the written notice of Proposal for Amendment is delivered to the Owner. Votes shall be cast by Owner no later than by 5:00 PM on the last day for voting.

Notwithstanding the 15-day time limit for each Owner to receive a notice of the Proposal, and Owner may waive such time limit and cast their vote earlier than the first day of voting. This waiver shall be contained in the ballot, and approved in writing by the Owner.

An amendment that is passed by the Owners is effective when it is filed of record in the Real Records of Hood County, Texas, accompanied by a certificate that has been signed and dated by a majority of the Board of Directors. The certificate shall state that the required number of Owners cast a written vote in support of the amendment to this Declaration.

The Board of Directors shall retain the original ballots pertaining to the vote on the Proposal for Amendment for a period of not less than (3) three years after the day the amendment is filed in the real records of Hood County.

Section 8.3 Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or un-enforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 8.4 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 8.5 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Association, and there and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 8.6 Effect of Violations on Mortgages. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed or trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

Section 8.7 Terminology. All personal pronouns used in this Declaration and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limits nor amplifies the provisions of this Declaration itself. The terms “herein”, “hereof” and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear. All references in this Declaration to Exhibits shall refer to the Exhibits attached hereto.

Section 8.8 Federal and State Law Prevail. In the event any provision in these restrictions conflicts with or is inconsistent with federal or state law, such federal or state law shall prevail.

[Must be signed by majority of Board Members]

We the undersigned members of the Board of Directors of TCPOA hereby certify and attest that the foregoing “Declaration of Covenants, Conditions and Restrictions, Easements, Charges and Liens [Restated a/o 6/2016] were duly adopted by a vote of more than 2/3 of owners eligible to vote which a quorum of at least 46 owners have voted in strict compliance with the amendment procedures.