

# **THUNDERBIRD POINT OWNERS ASSOCIATION**



**ThunderbirdPoint.com**

## **GOVERNING DOCUMENTS PACKAGE**

**As of: July 2021**

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## **Thunderbird Point Owners Association Mission & Vision Statements**

The Thunderbird Point Owners Association is committed to providing the highest level of community living with a beautiful, well-maintained, safe and neighborly environment for the common benefit and enjoyment of all property owners.

We will enforce the Association Governing Documents consisting of Covenants, Conditions and Restrictions and By-Laws while providing ethical and fiscally responsible solutions to promote a strong sense of community, to optimize our property values, and plan for the future.

***P**rovide an enriched community with a sense of pride.*

***R**espect and preserve the collective rights and interests of property owners.*

***I**nvest in the community in order to protect property values.*

***D**evelop active property owner involvement to cultivate a strong sense of community.*

***E**xpect all property owners to meet their individual responsibilities and abide by the governing documents.*

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**THUNDERBIRD POINT OWNERS ASSOCIATION**



**ThunderbirdPoint.com**

**GOVERNING DOCUMENTS**

**First Amended and Restated Declaration of Covenants,  
Conditions and Restrictions**

**July 2021**

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THUNDERBIRD POINT OWNERS ASSOCIATION

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THUNDERBIRD POINT OWNERS ASSOCIATION (this "Declaration") is made this 17 day of July 2021 a Texas nonprofit corporation (the "Association") and its successors and assigns.

RECITALS:

- A. *The Association desires to totally amend and restate the Declarations originally filed as SUBDIVISION RESTRICTIONS OF THUNDERBRID POINT SUBDIVISION SECTION I, recorded March 27, 1980 file 10,160, VOL 180, page 654, amended May 23, 1980 file 10,556, VOL 181, page 612, and corrected September 3, 1980 file 11411, VOL 183, page 516. SUBDIVISION RESTRICTIONS OF THUNDERBRID POINT SUBDIVISION SECTION II, recorded March 27, 1980, file 10,161, VOL 180, Page 659, amended May 23, 1980 file 10,557, VOL 181, page 614. THUNDERBIRDPOINT OWNERS ASSOCIATION By-Laws, amended July 20, 2019, recorded August 19, 2019, File number 60,576 VOL 457, Page 733.*
- B. Thunderbird Point, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Property"), is to be a single-family residential community.
- C. For the efficient management of the Property and the enhancement and preservation of the value, desirability and attractiveness of the Property, the Association a non-profit corporation has the powers of: (i) managing, maintaining and administering the Common Areas; (ii) administering and enforcing the covenants, conditions, and restrictions, By-laws set forth in this Declaration and other Governing Documents; (iii) collecting and disbursing Assessments and charges set forth in the By-Laws, this Declaration and other Governing Documents; and (iv) performing such other acts as may reasonably be related to the maintenance, operation and management of the community and the Association.
- D. Hereafter, title to the Property, or any part thereof, will be held and conveyed subject to the covenants, conditions, restrictions, easements, liens and charges set forth herein.

NOW, THEREFORE, the Association, through its Board of Directors, hereby covenants, agrees and declares that all of the Property, and such additions thereto as may be hereafter

made, shall be owned, held, leased, sold, occupied and conveyed subject to the covenants, conditions, restrictions, By-Laws, easements, liens and charges set forth therein, which shall run with the land and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each Owner thereof.

## ARTICLE I

### DEFINITIONS

**Section 1.1 Terms Defined.** As used in this Declaration, the following terms shall have the meanings set forth below:

**“Assessments.”** The Annual/Regular Assessments, Special Assessments and Individual Assessments owing to the Association by an Owner or levied against a Lot by the Association.

**“Association.”** Thunderbird Point Owners Association, Inc., its successors and assigns, a Texas non-profit corporation organized under The Texas Nonprofit Corporation Law (TNCL) and created for the purposes, and possessing the rights, powers and authority, set forth in this Declaration, the Certificate of Formation (Formally known as Articles of Incorporation) and other Governing Documents.

**“Board of Directors.”** The affairs and management of the Association shall be conducted by a Board of Directors consisting of five (5) members. The Board of Directors shall have full power and authority to carry out the purposes of the Association as specified in the Governing Documents, *Article III Section 3.3*

**“By-Laws.”** The By-Laws of the Association adopted by the Board of Directors, as amended from time to time.

**“Certificate of Formation.”** Formally known as Articles of Incorporation filed with the Secretary of State of Texas, as amended from time to time.

**“Committee.”** The Architectural Control Committee established for the purposes set forth in *Article VIII* of this Declaration.

**“Common Areas.”** All real property (including Improvements thereon) owned by the Association for the common use and enjoyment of the Owners in accordance with the terms of the Governing Documents, including, but not limited to, those areas which may be shown on the Plat and designated thereon as “Common Area” or “Common Open Space,” and further including, but not limited to, the Community Pool, Parks, Lake, and all private streets, driveways and entryways within the community.

"Common Expenses." All costs and expenses, including allocations to the Working Capital Fund (Checking) and the Reserve Fund (Savings), costs incurred with respect to the maintenance and upkeep of the Common Areas, the operation of the Association and the reserves or financial liabilities of the Association that are incurred pursuant to the provisions of the governing Documents or a resolution duly adopted by the Board of Directors.

"County." Camp County, Texas

"Declaration." This First Amended and Restated Declaration of Covenants, Conditions and Restrictions, for Thunderbird Point Owners Association, and all recorded amendments and supplements thereto, which shall be recorded in the County.

"Default Rate." An interest rate equal to the lesser of: (i) fifteen percent (15%) per annum or (ii) The maximum lawful rate of interest under Texas law.

"Dispute." Any claim, grievance, or other dispute arising out of or relating to: (i) the interpretation, application, or enforcement of the Governing Documents; (ii) any conflict or dispute arising between or among two or more Owners; (iii) the proper party to bear a maintenance cost or expense or a capital expenditure or the proper amount of the expense to be charged or collected; (iv) the rights obligations, and duties of any Owner under the Governing Documents; (v) the authority of the Association or the Committee, under any law or under the Governing Documents to: (a) require any Owner to take any action or not to take any action involving such Owner's Lot; or (b) alter or add to the Common Areas, or (vi) the failure of the Association, in accordance with any legal requirements and the Governing Documents to: properly conduct elections; give adequate notice of meetings or actions; properly conduct meetings; or allow inspection of books or records, *except that* the following shall not be considered "Disputes" unless all parties shall otherwise agree to submit the matter to arbitration pursuant to *Article IX* of this Declaration; (i) the levy of a fee or Assessment, or the collection of an Assessment levied against an Owner by the Association; (ii) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration and other Governing Documents; (iii) any suit between Owners the Association if such suit asserts a Dispute which would constitute a cause of action independent of this Declaration and other Governing Documents; (iv) any disagreement that primarily involves title to any Lot or Improvement thereon; or (v) any suit in which the applicable statute of limitation would expire with 180 days of the giving of notice as provided in *Article IX* of this Declaration unless the Persons against whom the Dispute is made agrees to toll the statute of limitations for a period of time necessary to comply with *Article IX* of this Declaration.

"Governing Documents." Individually and collectively, Covenants, Conditions, and Restrictions, By-Laws, the Owners Protection Act, the Rules and Regulations and the TNCL.

"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity

(federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

**Legal Requirements.** Any and all matters of record and any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to any Owner's use and enjoyment of its Lot, Residence, the Common Areas or the community, including zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier, health and environmental laws and regulations.

**Long Term Camping.** A period of time greater than 14 consecutive days.

**Lot.** Any lot, tract or parcel of the Property, including the Improvements thereon, to be used or designated for separate ownership or occupancy, as shown upon the Plat or any Future Plats, but excluding any portion of the Property owned by the Association, including the Common Areas.

**Mortgagee.** Any Person that is the holder any bona fide indebtedness which is the result of an arm's length negotiation, that is secured by a first lien encumbrance upon a Lot and which has provided the Association with written notice of its name, address and description of the Lot encumbered thereby.

**Owner.** Any Person owning fee title to any Lot but excluding any Person having an interest in a Lot solely as security for an obligation.

**Owners Protection Act.** The Texas Residential Property Owners Protection Act, Chapter 209 (209.001, *et seq.*) of the Texas Property Code, as the same may be amended from time to time.

**Person.** Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other legal entity, including any public or governmental body, agency or instrumentality and any fiduciary acting in such capacity on behalf of any of the foregoing.

**Plat.** That certain plat map for Thunderbird Point, Section I and Section II, dated January 24, 1980 and filed for record in the real property records of Camp County, Texas, plat cabinet in Volume 1, pages 44 and 44A, may be amended from time to time to reflect Common Areas or the addition of subsequent phases of the community.

**Community.** The Property and the Improvements.

**Regulations.** Any rules or regulations of the Association, existing now or in the future, relating to the appearance, use and occupancy of the Common Areas and the Lots, including the exterior of the residences, as amended from time to time, which such Regulations shall, at all times, be subject to the Owners Protection Act.

"Reserve Fund (Savings)." A fund that may be established by the Association for the periodic maintenance, repair, restoration and/or replacement of (i) Improvements in the Common Areas, and (ii) those other portions of the Property which the Association may be obligated to maintain.

"Residence." The Improvement located on each Lot that is designated for single family residential uses, together with any garage incorporated therein, whether or not such residence is actually occupied.

"Supplemental Declaration." An investment executed by the Association and recorded in the real property records of the County for the purpose of subjecting additional property to the effect of this Declaration, withdrawing any portion thereof from the effect of this Declaration or for such other purposes as are provided in this Declaration.

"Short Term Camping." A period of time less than 14 consecutive days.

"TNCL." The Texas Nonprofit Corporation Law, Chapter 22 (22.001, *et seq.*) of the Texas Business Organizations Code, as the same may be amended from time to time.

"TPOA." Thunderbird Point Owners Association.

"Working Capital Fund (Checking)." A fund to be maintained by the Association to meet the expenditures of the Association or to purchase any equipment or services deemed necessary by the Association for operation of the Association.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

**Section 2.1 Existing Property.** The Lots shall be held, transferred, sold conveyed and occupied subject to this Declaration.

## ARTICLE III

## ASSOCIATION MEMBERSHIP AND PURPOSES

**Section 3.1 General.** The Association has been incorporated as a nonprofit corporation under the TNCL. In addition to the powers conferred on the Association under the By-Laws, this Declaration, and the other Governing Documents, the Association may take all actions authorized by the TNCL. Any and all actions taken by the Association pursuant to the Governing Documents shall be binding on all Owners.

**Section 3.2 Membership.** Membership, membership rights, in arrears of Assessments and voting are discussed in the By-Laws Article One Sections 1-3 and Article Six.

**Section 3.3 Powers and Authorities of the Association and Board of Directors.**

Subject to the TNCL, the Board of Directors shall have and exercise all powers and duties necessary for the proper administration of the community and affairs of the Association. In the performance of its duties as the governing body of the Association, the Board of Directors shall have all powers and duties set forth in the TNCL, the By-Laws, this Declaration, and all Governing Documents, including the right to:

- A. Enforce and administer the terms of the Governing Documents (subject to the Owners Protection Act);
- B. Keep books and records of the Association's affairs;
- C. Establish, levy and collect Assessments as provided in the By-Laws and *Article V* of this Declaration;
- D. Enter at any time *in an emergency*, which includes the necessity of the Association or Board of Directors to act immediately to prevent further harm;
- E. Retain and pay for legal and accounting services necessary or proper in the purpose of the Association.

**Section 3.5 Common Areas.** The Association shall have the following duties with respect to the Common Areas:

- A. To accept, own, operate and maintain all Common Areas which have been conveyed or leased to the Association, together with all Improvements of whatever kind and for whatever purpose which may be located thereon, and to maintain in good repair and condition all property and other Improvements owned or leased to the Association;
- B. To construct, maintain, repair and replace landscape improvements and irrigation systems;

- C. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned or leased to the Association, including the Common Areas, to the extent such taxes and assessments are not levied directly upon the Members;
- D. To take out and maintain a current policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Areas, as well as casualty coverage's on all real and personal property owned by the Association, in such amounts as the Board of Directors shall deem appropriate;
- E. To grant and convey to any Person real property or other interests therein, including fee title, leasehold estates, easements, rights-of-way or mortgages in any Common Areas for the purpose of constructing, erecting, operating or maintaining:
  - 1. Parks, parkways or other recreational facilities;
  - 2. Roads, streets, walks, driveways, trails and paths;
  - 3. Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
  - 4. Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and
  - 5. Any similar public, quasi-public or private improvements or facilities; provided, however, that the Association shall not convey fee title to or mortgage any portion of the Common Areas without the consent of at least 67% of the Owners.
- F. To pay for water, sewer, garbage removal, landscaping and all other utilities, services and maintenance for the Common Areas, including the maintenance and repair thereof;
- G. To construct new Improvements or additions to the Common Areas, subject to the approval of the Committee, and
- H. To enter into contracts with Persons on such terms and provisions as the Board of Directors shall determine, to operate or maintain any Common Areas or to provide any service or perform any function on behalf of any other Person.

## ARTICLE IV

## MAINTENANCE

**Section 4.1 Lot Maintenance.** The Owner and occupant of each Lot shall, upon occupation of a Residence, maintain such yards in a sanitary and attractive manner. Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the Lot in a neat and attractive manner.

**Section 4.2 Maintenance of Improvements.** Each Owner shall (i) maintain its Residence and all buildings, fences, walls and other Improvements on its Lot in good condition and repair; (ii) replace worn and rotted portions thereof; (iii) regularly repaint all painted surfaces as needed; and (iv) not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the Improvements to deteriorate in an unattractive manner.

**Section 4.3 Owners Failure to Maintain.** If any portion of a Lot or any Residence thereon, in the reasonable judgment of the Board of Directors; (i) constitutes a public or private nuisance; (ii) substantially detracts from the appearance or quality of the surrounding Lots, the Common Areas; other areas of the community; or (iii) constitutes a breach of any of the terms of the Governing Documents, the Board of Directors may give such Owner written notice thereof and a deadline by which such Owner's Lot or Residence must be brought into compliance or such breach must be cured and such Owner must, within thirty / ten days after receiving such Thirty or Ten Day Notice, commence to perform the care and maintenance specified in such notice and pursue the same with due diligence to completion, except in the case of a catastrophic occurrence, where it is impossible to start improvement within such thirty / ten day period; provided that, the Board of Directors and/or the Association may act immediately in the event of an emergency. To the extent any action taken by the Association pursuant to this *Section 4.3*, in the discretion of the Association, constitutes an "enforcement action" under Section 209.006 of the Owners Protection Act, such action shall be governed by the Owners Protection Act and shall be in accordance with *Article II, Assessments* of the By-laws.

ARTICLE V

ASSESSMENTS

**Section 5.1 Assessments by the Association.** All property owners are legally REQUIRED and have an individual obligation to pay TPOA Assessments. This obligation is contractual in nature and is binding upon all Owner(s) who acquire title to an applicable lot(s) or Parcel. The personal obligation for delinquent assessments shall not pass to a successor in title to such Owner unless expressly assumed by such successor. These assessments provide for the maintenance of association owned facilities and property. There are three types of assessments: Regular Assessments, Special Assessments and Individual Assessments.

**Section 5.2 Regular Assessments.** Regular Assessments are Annual Assessments are due on June 30<sup>th</sup> and subject to change. All property owners owe this assessment for EACH SINGLE FAMILY RESIDENTIAL DWELLING. Property Owners that lease multiple Single Family Residences owe the Regular Assessment for EACH leased Single Family Residential Dwelling. Property owners that own EMPTY lot(s) are assessed a single annual assessment.

**Section 5.3 Special Assessments.** Special Assessments are on a one-time basis due to special circumstances such as pool equipment repair, boat ramp and boat dock facility repairs, association property maintenance and repair, maintenance equipment such as lawn mowers and associated equipment.

**Section 5.4 Individual Assessments.** Individual Assessments are levied against an Individual, particular lot(s), or property for damage to the Common Areas or special circumstances.

**Section 5.5 Personal Obligation to Pay Assessments.** The Assessments shall be personal obligations of the Owner(s) of each lot(s) or Parcel. No Owner may exempt themselves from liability for Assessments. In the event the Owner does not pay an Assessment in full when due, such Owner shall pay interest on such unpaid Assessment from the due date until paid at the Default Rate of Interest of 1.25% per month (15.0% annual rate) together with all costs and expenses of collection incurred by the Association, including, but not limited to, reasonable attorneys' fees. The obligation of the Owner(s) to pay Assessments with respect to a lot(s) or Parcel made for any period of time that an Owner owns the lot(s) or Parcel shall remain the personal obligation of such Owner, and such obligation shall not pass to transferees from such Owners unless expressly assumed by such transferees. A property Owner is legally obligated to pay the Assessments to the Association even if the property owner does not use the Association's facilities or amenities.

**Section 5.6 Assessment Lien and Foreclosure.** All unpaid Assessments, together with interest from the due date until paid at the Default Rate of Interest and together with the costs and expenses of collection incurred by the Association, including, but not limited to, reasonable attorneys' fees, shall be secured by a continuing contractual lien against the

affected lot(s) or Parcel, which lien shall bind such lot(s) or Parcel and the Owner thereof and their heirs, successors, devisees, personal representatives and assignees. The aforesaid contractual lien shall attach to each lot(s) or Parcel as of the date the Declaration is recorded in the Deed Records of Camp County, Texas, and shall be superior to all liens other than (a) a deed of trust or mortgage lien against the lot(s) or Parcel, (b) any sale and leaseback agreement or lease and sublease back agreement whereby an Owner transfers the lot(s) or Parcel and simultaneously acquires a possessory interest under a lease from, or other agreement with, the transferee, and (c) the lien securing real estate taxes provided; however, the liens described in (a) and (b) above shall be inferior and subordinate to the lien provided for in this Section 6 to the extent of any unpaid Assessments set forth in a Notice of Unpaid Assessments (hereinafter defined) recorded prior to the date of such liens described in (a) or (b) above. The Association shall have the power to subordinate any Assessment lien to any other lien. ALL LOT(S) OR PARCELS ARE CONVEYED AND ACCEPTED BY THE OWNER THEREOF SUBJECT TO THE ASSESSMENT LIEN PROVIDED IN THIS SECTION 5.6. SUCH LIEN HAS ATTACHED TO THE PROPERTY AND ALL LOT(S) OR PARCELS AND PRECEDES AND IS SUPERIOR TO ANY HOMESTEAD RIGHT THAT MAY BE ASSERTED BY ANY PURCHASERS OF LOT(S) OR PARCELS SUBSEQUENT TO THE DATE OF THE RECORDING OF THE DECLARATION IN THE DEED RECORDS OF CAMP COUNTY, TEXAS. To evidence unpaid Assessments, the Association may prepare a written notice of unpaid Assessments (the "Notice of Unpaid Assessments") setting forth the amount of the unpaid Assessments, the amount of interest owned thereon computed at the Default Rate of Interest from the due date until paid, the amount of costs and expenses of collection incurred by the Association, including, but not limited to, reasonable attorney's fees, the name of the Owner of the affected lot(s) or Parcel and a description of the affected lot(s) or Parcel. Such notice shall be recorded in the Real Property Records of Camp County, Texas. The Association shall record a release of any recorded Notice of Unpaid Assessments when all amounts set forth therein have been paid in full. The lien for payment of Assessments may be enforced by judicial foreclosure through a public sale in accordance with Section 51.002 of the Texas Property Code, as amended. In addition, the Association may institute suits against the Owner of the affected lot(s) or Parcel to obtain a judgment for all sums due and owing the Association. The Association may purchase any lot(s) or Parcel at foreclosure and may acquire, hold, lease, mortgage, auction to members, convey or otherwise deal with such lot(s) or Parcel. Upon the written request of any mortgagee holding prior lien on any lot(s) or Parcel, the Association shall report to such mortgagee any unpaid Assessments then owing to the Association with respect to such lot(s) or Parcel.

ARTICLE VI

EASEMENTS

**Section 6.1 Utility Easements.**

- A. The Board of Directors hereby grants a perpetual, irrevocable and non-exclusive easement for utilities on, over and across the Property, as shown on the Plat for the use and benefit of any public utility or private company operating in the County for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, security, gas, water, sanitary sewers, storm sewers, satellite, broadband, cellular or other wireless communication designed to provide or deliver communication of any form, video or telephone communications, computer access, internet or e-mail access, security monitoring or other services to any Owner and any other utility or service which the Board of Directors may find necessary or proper for supplying utility service to the Property.
- B. The Board of Directors hereby reserves for itself, and grants to the Association, the right to grant such additional easements for purpose of utilities over any portion of the Common Areas as it deems necessary.
- C. In addition the Board of Directors may record an easement agreement or easement relocation agreement in the real property records of the County, specifically locating or relocating any utility easement subsequent to the relocation of this Declaration, and the Owners of each Lot, by acceptance of the deed to a Lot, hereby grant the Board of Directors and the Association thereafter, an irrevocable power of attorney, with full power and authority to locate or relocate such utility easement.
- D. The Board of Directors reserves the right to retain or transfer title to any and all wires, pipes, conduits, lines, cables, transmission towers or other improvements installed on or in the above described utility easements and to enter into franchise or other agreements with private or public providers of telecommunication type packages that are designed to provide utility services to the Property.
- E. Neither the Board of Directors nor its agents or employees shall be liable for any damage done to shrubbery, trees, flowers or other property of an Owner situated on the portion of the Lots covered by the above described utility easements.

**Section 6.2 Development Easements.** The Board of Directors reserves the blanket easements and the right to grant such specific easements over all Lots and Common Areas as may be necessary in conjunction with the orderly development of the community and any and all other properties for access, construction and maintenance of the utilities and storm drainage (whether surface or below surface). No such easements may be located with the area beneath any improvement already located thereon.

**Section 6.3 Common Area Easements.** The Board of Directors hereby grants a perpetual, irrevocable, non-exclusive easement on, over and across the Common Areas for the benefit of each Owner and its invitees and guests and the Association for ingress to and egress from its Lot, together with the non-exclusive right to use and enjoy the Common Areas the Board of Directors further reserves an irrevocable, non-exclusive easement on, over and across the Common Areas for its own benefit and for the benefit of its successors and assigns and employees and agents, for the purpose of construction of Improvements with the Property, including the right of temporary storage of construction materials on said Common Areas.

**Section 6.4 Additional Easements.** The Board of Directors shall have the right, in its sole discretion, to reserve, create and grant easements on the Common Areas, in its own name, during such period as it shall hold title to the Common Areas, or in the name of the Association, if such Common Areas have been conveyed to the Association, for its own benefit, the benefit of the Owners and the Association for the use and enjoyment of the Property, without the approval of any other Person, including the Association. The Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas, such further easements as are requisite for the convenient use and enjoyment of the Property.

**Section 6.5 Titus County Fresh Water Supply District No.1.** Supervision and operation of Lake Bob Sandlin and Fort Sherman Dam are under the general management of the Executive Director of the District. The District offices are located at 352 Fort Sherman Dam Road, Mt. Pleasant, Texas with the mailing address being P.O. Box 650, Mt. Pleasant, Texas, 75456-0650. The telephone number 903-572-1844 and you can visit the District's website at [www.tcfreshwater.com](http://www.tcfreshwater.com). In addition to the entire lake and dam, the District owns a 100' flowage easement outside the property line or to 342.0' MSL, whichever is greater. No buildings or other structures shall be located within the confines of the easement area except upon written consent of Grantee. No alteration of the shore line by excavation, filling, channeling, or in any other manner, shall be permitted within the easement area except upon written consent of the Grantee. Septic systems placed in the easement area shall be constructed and maintained in accordance with tried and established rules and regulations of the Texas Commission on Environmental Quality (TCEQ) or its successor. TPOA has no jurisdiction of these guidelines and is providing this information as a courtesy to property owners.

ARTICLE VII

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

**Section 7.1 General.** Thunderbird Point was designed and surveyed for two purposes; Section I (Residential) is to serve as a residential area, and Section II (Camping) is to provide temporary camping space. To simplify the Restrictions set forth for each area, Section 7.2 will address restrictions that apply to Sections I (Residential) & II (Camping), Section 7.3 will address additional restrictions that apply to Section I (Residential), and Section 7.4 will address additional restrictions that apply to Section II (Camping). Any violations of stated restrictions are subject to fines on a case-by-case basis, as annotated in Appendices Fees and Fines. *All construction of improvements on any lot requires Architectural Control Committee approval.*

**Section 7.2 Section I (Residential) & II (Camping) Restrictions (All Lots)**

- A. **Re-subdivision.** Normally, none of the Lots may be subdivided into smaller Lots. The Committee may approve changes on a case-by-case basis.
- B. **Residential Dwelling.** No outbuilding, boathouse, shed, storage building, tool house, garage, workshop, etc. shall at any time be used as a residential dwelling, temporarily or permanently. For guidance on approved structures, refer to Section 7.3 for Section I Residential Lot Restrictions, and Section 7.4 for Section II Camping Lot Restrictions.
- C. **Construction.** No motor home, travel trailer, RV, mobile home, out-building, or temporary improvement of any kind shall be used or permitted on any Lot during construction unless previously approved by the Architectural Control Committee. No building material of any kind or character shall be placed or stored upon a Lot until the Owner thereof is ready to commence construction of Improvements thereon.
- D. **Outside Plumbing.** No outside toilet or privy shall be erected or maintained on any lot. The materials installed in, and the means and methods of assembly, all sanitary plumbing shall conform to requirements of the Health Department of the State of Texas and local authorities having jurisdiction. NO SEWAGE NOR EFFLUENT, BLACK WATER OR GREY WATER SHALL BE DISPOSED OF UPON, IN, ON, UNDER ANY LOT, except into an approved septic tank or other approved system meeting the aforesaid requirements.
- E. **Trucks & Trailers.** Trucks and trailers with tonnage in excess of one ton, such as eighteen-wheelers shall not be permitted to park overnight within the community, except those used by a builder during the construction of Improvements within the community.

- F. Cargo.** No vehicle of any size, which transports inflammatory or explosive cargo or hazardous material, may be kept in the community at any time.
- G. Vehicles.** No inoperative cars or vehicles of any type or nature may be kept or situated within the community, within view of the public. All vehicles should be operational with current Texas Department Motor Vehicles Registration. This does not include vehicles that are under restoration or immediate repair. The intent is to prevent a junkyard appearance and not have parts and equipment displayed in an unsightly manner.
- H. Animals and Livestock.** No animals, livestock or poultry of any kind shall be raised, bred or kept on the Property *except* that dogs, cats or other household pets may be kept for the purpose of providing companionship for a private family. Animals are not to be raised, bred or kept for **commercial purposes** or for food. The intent is to not restrict the breeding or selling of household pets such as puppies, kittens, etc. It is the purpose and intent of these provisions to restrict the use of the Property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks, reptiles or any other animals that may interfere with the quietude, health or safety of the residents who live on the Property. No more than four pets should be permitted on each Lot. Pets must be restrained or confined in each Lot inside a fenced area or within a Residence. It is an Owner's responsibility to keep its Lot clean and free of pet debris. All animals must be properly tagged for identification. The Association has the right to declare any animal, including dogs, cats, or other household pets, unsafe after notice and hearing before the Board of Directors. In the event of an "unsafe" finding by the Board, the Owner shall be required to remove the animal and/or pet from the Property. ***ALL HOUSEHOLD PETS SHOULD BE ON A LEASH OR UNDER DIRECT SUPERVISION AND NOT ALLOWED TO ROAM THE DEVELOPMENT OR ENTER ONTO OTHERS PROPERTY. ALL HOUSEHOLD PETS SHOULD HAVE A COLLAR WITH CURRENT RABBIES VACCINATION TAG, NAME, AND OWNER'S CONTACT INFORMATION.***
- I. Texas Statutes on Dangerous Dogs.** Under Title 10 of the Texas Health and Safety Code Section 822, a "Dangerous Dog" is one that makes an unprovoked attack on a person outside of its enclosure that causes bodily injury or is aggressive to such an extent that its actions cause a person to reasonably believe that the dog will attack and cause bodily injury. An "Aggressive Dog" is one that attacks another person on the property of the dog's owner, has displayed aggressive tendencies putting people in fear that it will escape or has interfered with people walking in a public area. This law allows for the seizure of a dangerous dog that causes death or serious bodily injury. If a dog owner knows that it is a dangerous animal and makes an unprovoked attack outside of its secure area, that person can be charged and convicted of a crime. It is a felony of the third degree if there is bodily injury from the dog attack and it is a felony of the second degree if the dog attack results in the death of the victim. When an individual knows that he/she have a dangerous dog, they are required to: (1) Register the dog with the local animal control office; (2) Properly

restrain or enclose the dog; (3) Obtain liability insurance or show financial responsibility of at least \$100,000 to cover any personal injury damages caused by a dog attack; and (4) Comply with all county or city regulations regarding dogs.

- J. Dumping.** No Lot or other area of the Property shall be used as a dumping ground for rubbish or as a site for the accumulation of unsightly materials of any kind, to include broken or rusty equipment, disassembled or inoperative cars or other vehicles and discarded appliances and furniture. Trash, garbage or other waste shall not be kept on the Property except in sanitary containers. All equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of Improvements may be stored on Lots during construction so long as construction progresses without undue delay.
- K. Antennas.** The Association and the Committee shall not prohibit the installation, maintenance or use of antennae used to receive video programming as described in the Over-the-Air Reception Devices Rule adopted by the Federal Communications Commission. An Owner shall be permitted to install or maintain video antennae, including direct-to-home satellite dishes, TV antennae and wireless cable antennae, subject to reasonable safety rules established by the Association from time to time.
- L. Owner's Use.** No Lot or Improvement thereon shall be used for retail business, professional, commercial or manufacturing purposes of any kind, other than those lots designated in Section 7.3. paragraph B. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken on the Property, nor shall anything be done which is or may become an annoyance or nuisance to the community. *Nothing in this subsection shall prohibit an Owner's use of a Residence for quiet, inoffensive activities such as working from home, consulting, accounting, music lessons, tutoring, art lessons, parties, etc. so long as such activities are in compliance with all Legal Requirements and do not significantly increase the number of cars parked on the street or interfere with the adjoining Owners' use and enjoyment of their Residence and Lots.*
- M. Short Term Rentals.** – See RULES and REGULATIONS.
- N. Corner Lots.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three and six feet above the roadway shall be placed or permitted to remain on any corner Lot with the triangular area formed by the street right-of-way lines and a line connecting them at a point ten feet from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight line limitations shall apply to any Lot within ten feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of those sight lines.

- O. **Storage Buildings.** Except for children's playhouses, storage buildings, doghouses and gazebos, no building previously constructed elsewhere shall be moved onto any lot. It being the intention and purpose of this provision that only NEW construction be placed and erected thereon, unless approved by the Architectural Control Committee. All buildings must be kept in good condition and repair.
- P. **Drainage.** Within easements on each Lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels, which may obstruct or retard the flow of water through drainage channels or which may interfere with the maintenance and repair of any screening walls unless approved by the Architectural Control Committee.
- Q. **Slope.** The general grading, slope and drainage plan of a Lot may not be altered without the prior approval of the appropriate Governmental Authorities.
- R. **Fires.** Except within masonry, rocks, stone, etc. or commercially manufactured outdoor fire pits, burn barrel, or fireplaces in the main Residence and except for outdoor cooking, no burning of anything shall be permitted anywhere on the Property, except as stated herein. The burning of leaves, brush, timber, and or clearing of lots are permitted, but must be under adult supervision and in accordance with local burn laws. The burning of garbage on the ground is strictly prohibited.
- S. **Drilling.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in portion of a Lot or the Common Areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot or with the Common Areas. No derrick or other structure designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or with the Common Areas.
- T. **Fences and Walls.** Any fence or wall must be constructed of metal, masonry, brick, wood or other material that is approved by the Architectural Control Committee. No fence constructed shall block the main lake view of adjoining neighbor's property. Solid privacy fences between main lake lots is strictly prohibited. All main lake lot fencing requires Architectural Control Committee approval. No privacy fence or wall shall be permitted to extend nearer to any street than the front of any Residence, so as to not block vehicular right of way vision. However, all side yard fencing on corner Lots shall run parallel to the curb and may be placed up to the side building line as shown on the Plat and shall not extend beyond a point of six feet behind the front of the Residence on that side. The Association may construct certain fences and masonry screening walls and shall be maintained and repaired by the Association. Each Owner shall maintain and repair any retaining walls that are built on its Lot. No portion of any fence shall exceed six feet in height. Any fence or portion thereof that faces a street shall be so constructed so that all structural

members and posts will be on the side of the fence away from the street so that they are not visible from any right-of-way.

- U. **Firearms.** Hunting of wildlife or discharging of firearms (such as target practice, random shooting, or in an unsafe manner) is strictly prohibited on any lot or in any part of the Subdivision. Firearm use is protected in accordance with Texas / Federal laws such as "Stand Your Ground" and "Castle Doctrine".
- V. **Speed Limit.** The posted speed limit within the community is 25 MPH and adopted by Camp County Commissioners Court in accordance with Transportation Code 545.355.
- W. **Noise Curfew.** A midnight to 08:00AM Noise Curfew should be respected. Please be respectful and considerate to your neighbors.
- X. **Protections.** *Nothing in this Section or elsewhere in this Declaration shall prohibit an Owner from:* (i) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves or brush or leaving grass clippings uncollected on grass or from installing rain barrels, a rain harvesting system or an irrigation systems as described in Section 202.007(a) of the Texas Property Code, provided, however, that the Association may make any rules and restrictions governing such activities as provided in Section 202.007(d) of the Texas Property Code; (ii) installing a solar energy device as described in Section 202.010(a) of the Texas Property Code, provided, however the Association may prohibit the installation of solar energy devices and the Association may prohibit and regulate solar energy devices as provided in Sections 202.010(d)-(e) of the Texas Property Code; (iii) displaying any flag described in Section 202.012 of the Texas Property Code, provided, however, that the Association may enforce any requirements, regulations or prohibitions as provided in Section 202.012 of the Texas Property Code; and (iv) displaying or affixing on the entry to his residence one or more of the religious items as described in Section 202.018(a) of the Texas Property Code, provided, however, that the Association may exercise its enforcement powers as provided in Sections 202.018(b)-(d) of the Texas Property Code. *To be clear, the display of flags such as USA, Texas, Armed Forces, religious, etc. are authorized and encouraged.*

### Section 7.3 Additional Section I Residential Lot Restrictions

- A. **Residential Use.** All of the Lots developed on the Property (other than those referred to in section 7.3, paragraph B) shall be used for single-family residential purposes only. No Residence shall be constructed or permitted to remain on any Lot other than one detached single-family residence, which may not exceed two and one-half stories or 35 feet in height measured from the front, and a private garage as provided below. All Residences shall be constructed to minimum Federal Housing Authority and Veterans Administration standards, unless otherwise approved in writing by the Architectural Control Committee.

- B. Commercial Property.** Lots 224, 245, 246, 247, 248, 249 in Section I, are designated as commercial lots and/or retail sales establishments so conducted that they do not unduly conflict with the residential character of the Subdivision. Architectural Control Committee and Board of Directors approval is required. Thunderbird Volunteer Fire Department own lots 288, 373, and 374.
- C. Lot Easements.** No structure of any kind shall be located nearer to a side street line less than 15', or nearer to the side or rear of lot line 10', or nearer to the front lot line than 25'; provided, however that the Architectural Control Committee may allow lesser set-backs when unusual topography or design warrant it.
- D. Campers.** RV campers such as 5<sup>th</sup> wheels, motor homes, pull behind trailers, etc. are allowed to be stored on lots that have an existing single-family residential dwelling. Short Term Camping is permissible on any lot(s) that have an existing single-family residential dwelling. Long Term Camping is strictly prohibited. All campers listed above must be in good road worthy, working condition and be currently registered by TXDMV. This guidance shall not apply to equipment used during the construction, maintenance or repair of a residence in the immediate vicinity within Thunderbird Point, as approved by the Architectural Control Committee.
- E. Minimum Floor Area.** The total air-conditioned living area in the main structure of a single-family dwelling, as measured to the outside of exterior walls but exclusive of open porches, garages, breezeways, servant quarters, patios and detached accessory buildings, shall be not less than: (i) 720 square feet or (ii) the minimum habitable floor area as specified by any applicable Governmental Authority, whichever is greater.
- F. Building Materials.** The exterior makeup of a single-family dwelling should be constructed with materials such as masonry, brick, stone, Hardie Board, siding, roofing materials such as shingles, tile, metal, etc. All materials must conform to Texas House Bill 2439 and the International Building Code.
- G. Mobile Home Requirements.**
- I. An Application For Approval Of Plans For Mobile Home is required and must be submitted for approval by the Architectural Control Committee.
  - II. Applicant agrees that the mobile home and any construction incidental to installation shall be according to all Covenants, Conditions and Restrictions, By-Laws, Rules and Regulations, and any applicable Appendices.
  - III. Unimproved lot(s) must be made ready ***BEFORE*** Mobile Home placement. All cleared debris must be removed prior to installation.
  - IV. No mobile home may be occupied until there is a legal and functioning septic / aerobic system.
  - V. Mobile homes must be at least 720 square feet of interior space.

- VI. Applicant agrees to have the mobile home underpinned with acceptable skirting material within 90 (ninety) days of placement on the property.
- VII. Applicant acknowledges the set back requirements for any building or the mobile home per Section 7.3 paragraph C above.
- VIII. Mobile home must not be more than 7 (seven) years old from date of manufacture to date of installation on a lot(s).
- IX. Mobile home must be in good repair, no loose siding, trim in place, doors in good working condition, and recent paint if required.
- X. Photographs must accurately portray the actual and current appearance of the mobile home.
- XI. Mobile home will be inspected upon arrival and will be subject to removal, at the owners expense if in non-compliance.
- XII. Photo of serial number plate must be submitted with application.
- XIII. Photocopy of Certificate of Title with serial number must be submitted with application.

**Section 7.4 Additional Section II Camping Lot Restrictions**

- A. **Lot Easements.** No structure of any kind shall be located nearer to a side street line less than 5', or nearer to the side or rear of lot line 5', or nearer to the front lot line than 10'; provided, however that the Architectural Control Committee may allow lesser setbacks when unusual topography or design warrant it.
- B. **Campers.** Camping shall be limited to pickup campers, camping trailers, van conversions, 5<sup>th</sup> wheel trailers, travel trailers, and motor homes. Each shall be of good appearance and quality comparable to those built by commercial manufacturers, have current annual registration issued by Texas Department of Motor Vehicles, proven to be road worthy, and subject to Architectural Control Committee approval. Tents and similar types of temporary camping equipment may not be left on a lot unattended for more than 3 consecutive days.
- C. **Appliances.** Appliances outside of campers such as washers, dryers, dishwashers, refrigerators, etc. are strictly prohibited.
- D. **Waste Water.** CAMPING LOTS ARE FOR SELF-CONTAINING BLACK AND GREY WATER UNITS ONLY. NO SEWAGE, NOR EFFLUENT, BLACK WATER OR GREY WATER SHALL BE DISPOSED OF UPON, IN, ON, UNDER ANY LOT. No sewage disposal facilities or water wells shall be allowed. A community Black/Grey water disposal site is provided for owners use, located near the south entrance.
- E. **Structures.** All improvements require Architectural Control Committee approval. Examples include: concrete pads, metal pavilions over campers, storage buildings, fences, etc.

- F. **Trash/Garbage**. Lots must be kept free of litter, rubbish, trash or other debris. All trash must be transported and disposed of at the Owners expense. No unsanitary condition may be allowed to exist on any lot.
- G. **Timeline**. Long Term Camping and permanent residency is strictly prohibited. RV's and campers may be stored indefinitely as provided they are in accordance with all restrictions stated above.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

**Section 8.1 Appointment**. The Board of Directors shall designate and appoint a Committee which shall be composed of a minimum of three individuals, each generally familiar with the residential and community development design matters and knowledgeable about the Board of Directors concern for a high level of taste and design standards in the community. The Committee shall use its best efforts to promote and ensure a high level of taste, design, quality, and harmony throughout the community consistent with this Declaration.

**Section 8.2 Successors**. The Board of Directors shall have the right to appoint and remove all members of the Committee. In the event of the death, resignation or removal of any member of the Committee, the Board of Directors shall appoint a successor member. No member of the Committee shall be entitled to compensation for services performed pursuant to this Declaration.

**Section 8.3 Authority**. No building, fence, wall or other structure shall be commenced, erected, placed, maintained or altered on any Lot, exterior addition to, or alternation of, such items be made until all plans and specifications and plot plan have been submitted to and approved in writing by a majority of the members of the Architectural Control Committee;

- A. Quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design of main elevation with respect to nearby streets;
- B. Harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the various parts of the proposed improvements and in relation to improvements on other Lots in the community; and
- C. The other standards set forth within this Declaration (an any amendments hereto) or matters in which the Architectural Committee has been vested with the authority to render a final interpretation and decision, in coordination with the Board of Directors, if required. Disputes may be brought to the Board of Directors.

The Committee is authorized and empowered to consider and review any and all aspects of construction which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Owners or the general value of Lots in the community. In considering the harmony of external design between existing structures and the proposed building being erected, placed or altered, the Committee shall consider only the general appearance of the proposed building as that can be determined from front, rear and side elevations on the plans that are submitted to the Committee.

**Section 8.4 Procedure for Approval.** Final plans and specifications shall be submitted in duplicate by mail (preferably certified), email (ACC emails are listed on the website), or by actual delivery to the Committee at the address of the Association that is shown in *Section 10.8* of this Declaration. The plans and specifications shall show the nature, kind, shape, height, materials and location of all improvements. The documents shall specify any requested variance from the setback lines and any other requirement set forth in this Declaration or other Governing Documents. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans shall be marked "Approved," signed by a majority of the Committee and returned to the Owner or his designated representative. If disapproved by the Committee, one set of such plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable written statement that sets forth the reasons for disapproval, which statement shall be signed by a majority of the Committee. Any modification of the approved set of plans and specifications must again be submitted to the Committee for its approval. The Committee's approval or disapproval, as required herein, shall be in writing. In no event shall the Committee give verbal approval of any plans, and likewise, an Owner shall not rely upon any such verbal approval or statement. The Committee will make every effort to Approve or Disapprove such plans and specifications with 30 days. In case of a Dispute about whether the Committee responded with such time period, the person submitting the plans shall have the burden of establishing that the Committee received the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt or a signed delivery receipt.

**Section 8.5 Standards.** Subject to Chapter 202 of the Texas Property Code, the Committee may have discretion with respect to taste, design standards and other guidelines that are specified herein. One objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built on the Property. The Committee shall also have the authority, subjected to Section 202.011 of the Texas Property Code, to prohibit the use of light-weight composition roof material, to require that the colors of roofing materials be standard tones and generally to require that any plans meet the standards of the existing Improvements on neighboring Lots on the Property. The Committee may from time to time adopt such procedural and substantive rules, to the extent not in conflict with the Governing Documents, as it may deem necessary or proper for the performance of its duties, including any additional guidelines and publish and promulgate bulletins regarding such additional guidelines, which shall be fair,

reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration.

**Section 8.6 Waiver; Variances.** Circumstances may warrant waiver or variance of these guidelines. To obtain a waiver or variance, an Owner must make written application to the Committee and the Committee will consider such request and respond to the Owner with 30 days. If the application is approved, the waiver or variance must be in writing, and may be conditioned or otherwise limited.

**Section 8.7 Timeline.** New construction of any single-family dwelling should be completed within 12 months of approval from the Committee. Extensions may be granted at the discretion of the Architectural Control Committee.

**Section 8.8 Failure to Comply with these guidelines.** If an Owner makes any changes to its Lot and the Improvements thereon in a manner unsatisfactory to the Committee or fails to maintain its Lot and Improvements situated thereon in accordance with the guidelines, then the Association, through the Board of Directors or the Architectural Control Committee, shall have the right, through its agents and employees, to resolve such issues as provided in *Article IX* or upon compliance with the notice and hearing provisions, to the extent applicable, of the Owners Protection Act, seek enforcement of Owner's obligations under the Declaration in a court of competent jurisdiction located in Camp County, Texas. The cost of attorneys' fees incurred by the Association in the enforcement of the rights under these provisions shall, to the extent permitted by the Owners Protection Act, be added to and become a part of the Assessments to which the Lot is subject.

**Section 8.9 Liability of Committee.** THE OWNER, MAKING OR CAUSING TO BE MADE SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS, AGREES, AND SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD THE COMMITTEE, THE ASSOCIATION, AND ALL OTHER OWNERS HARMLESS FROM AND TO INDEMNIFY THEM FOR ANY LIABILITY OR DAMAGE TO THE PROPERTY RESULTING FROM SUCH ADDITIONS, ALTERNATIONS OR IMPROVEMENTS. ANY OTHER OWNER SUBMITTING PLANS HEREUNDER, BY DISSEMINATION OF THE SAME, AND ANY OWNER, BY ACQUIRING TITLE TO THE SAME, AGREES NOT TO SEEK DAMAGES FROM THE COMMITTEE, ARISING OUT OF THE COMMITTEE'S REVIEW OF ANY PLANS HEREUNDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE COMMITTEE SHALL NOT BE RESPONSIBLE FOR REVIEWING, NOR SHALL ITS REVIEW OF ANY PLANS BE DEEMED APPROVAL OF, ANY PLANS FROM THE STANDPOINT OF THE STRUCTURAL SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODES OR INDUSTRY STANDARDS OR COMPLIANCE WITH THE GOVERNING DOCUMENTS AND ALL LEGAL REQUIREMENTS, FURTHER, EACH OWNER AGREES TO INDEMNIFY AND HOLD THE COMMITTEE, THE ASSOCIATION AND ITS RESPECTIVE OFFICERS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL COSTS CLAIMS, DAMAGES, EXPENSES OR LIABILITIES WHATSOEVER, ARISING AS A RESULT OF THE REVIEW OF ANY PLANS HEREUNDER.

## ARTICLE IX

## MATTERS FOR MEDIATION AND ARBITRATION

**Section 9.1 Mediation.** All Disputes except those relating to equitable remedies, which shall not be resolved within 15 days after same have arisen (unless such greater time is provided elsewhere in the Governing Documents) shall be submitted for, or determined by, non-binding mediation, to the extent permitted by the Owners Protection Act. Mediation of any Dispute shall be initiated by any Owner making a written demand therefore to the other Owner, Owners or Committee involved in such Dispute and the Association. With respect to such mediation, the parties shall, within ten days after delivery of such written notice to the Association, appoint a mediator who is; (i) a reputable Person actively engaged in the commercial real estate industry for a continuous period of not less than ten years, and (ii) is in no way affiliated, or otherwise has had material business dealings, with any Owner or any Member of the Committee or Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the then presiding judge of the United States District Court. Such mediation shall occur within 30 days after the mediator has been appointed and shall occur at a mutually acceptable location. To the extent permitted by the Owners Protection Act, the costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorney's fees).

**Section 9.2 Final Offer Arbitration.** If the parties are unable to resolve any Dispute at mediation, no later than 30 calendar days after the parties have reached an impasse at mediation, the parties shall submit their Dispute to binding arbitrator from a list taken from the American Arbitration Association of commercial arbitrators, and if they cannot agree on an arbitrator, each party shall select a Person and those two so selected shall then select the single arbitrator who shall thereafter serve as arbitrator. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration promulgated by the American Arbitration Association shall apply. Any award that is rendered by the arbitrator shall be accomplished no later than ten days from the initiation of the arbitration procedure. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award.

**Section 9.3 Exclusive Remedy.** With respect to any Dispute subject to arbitration under this *Article IX*, it is agreed that the arbitration provisions of *Article IX* of the Declaration shall be the sole remedy of the Owners and/or Committee involved in such Dispute under this Declaration, except as otherwise provided in the Owners Protection Act. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any

dispute, claim, controversy or matter that does not constitute a "Dispute" as such term is defined in this Declaration or not described in *Article IX* of this Declaration or with any Person not named or described in this Declaration, provided that any arbitration proceeding initiated under the terms of this Section may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Dispute and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the Owners involved in the Dispute and such Owners' mortgagee and non-appealable judgment thereon may be entered by any court having jurisdiction. The party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation and arbitration of a Dispute under *Article IX* of this Declaration) of the party whose position is selected or awarded for the arbitration of the Dispute under *Article IX* of this Declaration to the extent permitted under the Owners Protection Act.

## ARTICLE X

### GENERAL PROVISIONS

**Section 10.1 Rights of Note Holders.** Any Mortgagee will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours; (b) receive an annual financial statement of the Association within 90 days following the end of its fiscal year; (c) receive written notice of all meetings; (d) receive written notice of any condemnation or casualty loss that effects either a material portion of the Property or the Lot securing its mortgage; (e) receive written notice of any delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which such Mortgagee holds mortgage; (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (g) receive written notice of any proposed action that requires the consent of a specified percentage of Mortgagees.

**Section 10.2 Resale Certificates.** In accordance with Texas Property Code section 207.003, Delivery of Subdivision Information to Owner, Subject to *Sections 10.2 A-D* below, not later than the tenth (10<sup>th</sup>) business day after the date a written request for Association information is received from an Owner or the Owner's agent, a purchaser of a Lot or Lots in the Property or the purchaser's agent, or a title insurance company or its agent acting on behalf of the Owner or purchaser, and the evidence of the requestor's authority to order a resale certificate is received and verified, the Association shall deliver to the Owner or the Owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent a current copy of this Declaration, the Bylaws, and any other documents containing any restrictions of the Association, along with a resale certificate prepared not earlier than the sixtieth (60<sup>th</sup>) day before the date of delivery that complies with Texas Property Code section 207.003(b). This information is also immediately available on the TPOA website, [www.thunderbirdpoint.com](http://www.thunderbirdpoint.com).

- A. For a request from a purchaser of a Lot or Lots in the Property or the purchaser's agent, the Association may require the purchaser or purchaser's agent to provide to the Association, before the Association begins the process of preparing or delivers the items listed in this *Section 10.2*, reasonable evidence that the purchaser has a contractual or other right to acquire a Lot or Lots in the Property.
- B. The Association may charge a reasonable fee to assemble, copy, and deliver the information required by this *Section 10.2*. The Association may require payment before beginning the process of providing a resale certificate but may not process a payment until the resale certificate is available for delivery. The Association may not charge a fee if the resale certificate is not provided in the time prescribed by this *Section 10.2*.
- C. The Association shall deliver the information required by this *Section 10.2* to the person specified in the written request. A written request that does not specify the name and location to which the information is to be sent is not effective. The Association may deliver the information required by mail, hand delivery, or alternative delivery means specified in the written request.
- D. Neither the Association, or its managing agent is required to inspect a Lot before issuing a resale certificate.

**Section 10.3 Updates to Resale Certificates.** Subject to *Sections 10.3 A-D* below, not later than the seventh (7<sup>th</sup>) business day after the date a written request for an update of a resale certificate is received from an Owner, Owner's agent, or title insurance company, the Association shall deliver to the Owner, Owner's agent, or title insurance company or its agent an updated resale certificate that complies with Texas Property Code Section 207.003(f).

- A. Request for an updated resale certificate must be made within one hundred eighty (180) days of the date the original resale certificate was issued. The updated request may be made only by the party who requested the original resale certificate.
- B. The Association may charge a reasonable fee to prepare and deliver an update of a resale certificate.
- C. The Association shall deliver the update to the resale certificate required by this *Section 10.3* to the person specified in the written request. A written request that does not specify the name and location to which the update to the resale certificate is to be sent is not effective. The Association may deliver the update to the resale certificate by mail, hand delivery, or alternative delivery means specified in the written request.

- D. Neither the Association nor its managing agent is required to inspect a Lot before issuing an update to the resale certificate.

**Section 10.4 Term.** The foregoing covenants, conditions, restrictions and agreements shall run with and bind the land and shall remain in full force and effect for a term of 25 years after this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years unless amended as provided herein. Unless otherwise provided in the Owners Protection Act, this Declaration may be amended or terminated, and can only be approved by an affirmative vote of at least two-thirds (2/3) of the members in GOOD STANDING to be cast by the Member-Homeowners present in person or by proxy at an Annual or Special Membership Meeting.

**Section 10.5 Severability.** If any covenant, condition, restriction, By-Laws, or agreement herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other covenant, condition, restriction, By-Laws, or agreement, each of which shall remain in full force and effect.

**Section 10.6 Binding Effect.** Each of the covenants, conditions, restrictions, By-Laws, and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every Person acquiring any part of the Property, it being understood that such covenants, conditions, restrictions, By-Laws, and agreements are not for the benefit of the Owner of any Lot except Lots within the community.

**Section 10.7 Enforcement.** Subject to applicable law and the provisions of *Article IX* of this Declaration, the Association, the Committee or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by an Owner to enforce any covenant, condition, restriction, By-Law or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 10.8 Addresses.** Unless otherwise stated in this Declaration, all notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee or (iv) by prepaid telegram, telex, or tele-facsimile to the address. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the address of the Association shall be as set forth below, the address of each Owner

shall be the address of the Lot; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days notice to the Association in the manner set forth herein:

The Association: Thunderbird Point Owners Association  
471 County Road 2603  
Pittsburg, TX 75686

Notwithstanding the foregoing, any notice required to be given under the Owners Protection Act shall be governed by the notice provisions contained therein.

**Section 10.9 Exculpation.** It is expressly understood and agreed that nothing contained in this Declaration shall be interpreted or construed as creating any liability whatsoever, directly or indirectly, against the Association or any of its officer, members, managers, employees, agents or attorneys, or any of its or their heirs, executors, legal representatives, successors or assigns for monetary relief or damages. In particular, and without limiting the generality of the foregoing, if any proceeding shall be brought to enforce the provisions of this Declaration, the party instituting such proceeding shall not be entitled to take any action to procure any money judgment against any of the Association related parties.

**Section 10.10 Governing Law.** THIS DECLARATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THIS DECLARATION SHALL BE IN CAMP COUNTY, TEXAS.

**Section 10.11 Headings.** The headings herein are for reference purposes only and shall not affect the meaning or interpretation of this Declaration.

**Section 10.12 Gender; Plurals.** Words of any gender used in this Declaration shall be held and construed to include any other gender; words used in this Declaration in the singular shall be held and construed to include the plural, and vice versa, as the context may require.

**Section 10.13 Conflicts.** If any of the provisions of the Governing Documents shall be in conflict with the provisions of the TNCL or the Owners Protection Act, the provisions of such statutes shall control. If a conflict exists between the provisions of the Governing Documents, the Governing Documents shall control in the following order.

- A. This Declaration;
- B. The Certificate of Formation;
- C. The By-Laws; and
- D. The Rules and Regulations.

The provisions of the Governing Documents embody the entire final documentation to which the Property and any Owners will be subject in relation to within the community and supersede any and all agreements, representations, and understandings, whether written or oral, between the Association and the Owners.

This is the last line of this Declaration of Covenants, Conditions and Restrictions.

EXECUTED THIS 17 day of July, 2021.

PRESIDENT – Marshall Jackson *Marshall Jackson*

VICE PRESIDENT – Scott Monaghan

TREASURER – Denise Powell

ASSOCIATION BOARD OF DIRECTORS:

- Kelly Corry
- Adam Hearnberger
- Donald Mays
- John Thornton
- Sue Wells

ATTEST:

SECRETARY – Debbie Thornton

STATE OF TEXAS

COUNTY OF CAMP

This instrument was acknowledged before me on the 17 day of July, 2021, by Marshall Jackson, the President of Thunderbird Point Owners Association, Inc. a Texas corporation, on behalf of said corporation.

*Debbie Thornton*

Notary Public – State of Texas  
My Commission Expires:

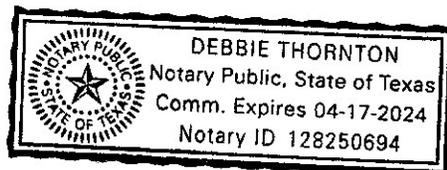


EXHIBIT A

Property Description

Thunderbird Point Subdivision Section I and Section II, containing 788 Lots, as recorded in the Camp County Plat Records, Volume 1, Pages 44 and 44A- being part of a 288.417 AC. Tract described in Volume 173, Page 182, of the Deed Records of Camp County Texas and situated on the Harrison County School Survey Abstract No. 53, T.J. Connor Survey Abstract No. 28, and R.F. Lewis Survey, Abstract No. 149, Camp County TX, and being part of the five tracts conveyed to Cypress Ranch Company by G.M. Scott Jr. and wife, Nettie Scott by Warranty Deed dated 5 December 1969 and recorded in Vol. 120, Page 307 of the Deed Records of said County.

497  
578

66,634

FILED FOR RECORD

at 10:50 o'clock A. M.

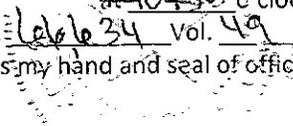
JUL 19 2021

By ELAINE YOUNG  
County Clerk, Camp County, Texas  
Deputy

(32)

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THE STATE OF TEXAS I, ELAINE YOUNG, COUNTY CLERK, CAMP COUNTY, TEXAS  
COUNTY OF CAMP do hereby certify that the foregoing instrument of writing with its  
Certificate of authentication, was filed for record in my office on the 19<sup>th</sup> day of July A.D. 2021  
at 10:50 o'clock A. M. and duly recorded on the 19<sup>th</sup> day of July A.D. 2021  
File no. 66634 Vol. 49 Page 578 of Official Public Record of said county.  
Witness my hand and seal of office Pittsburg, Texas the day and year last above written.



By: Susan Perry ELAINE YOUNG, COUNTY CLERK  
DEPUTY  
SUSAN PERRY