

**THUNDERBIRD BAY OWNER'S ASSOCIATION
2010 EDITION OF DEED RESTRICTIONS**

SECT. 1 There shall be an Architectural Review Committee composed of the Board of Directors (Hereafter described as B.O.D.) to protect the owners of lots in this Subdivision against such improper use of lots so as will depreciate the value of their property, to preserve, so far as practical, the natural beauty of said property, to guard against the erection thereon of poorly designed or proportional structures and structures built of unsuitable materials, to insure the highest and best development of said property, to encourage and secure the erection of attractive homes and placement of mobile homes thereon, with appropriate location thereof on lots, to secure and maintain proper set-backs from streets and adequate free spaces between structures; and there by enhance the value of investments made by purchasers of lots therein.

The Directors of Thunderbird Bay Owner's Association (B.O.D.) shall have neither liability nor responsibility at neither law nor equity on account of the enforcement of, nor an account of the failure to enforce restrictions.

SECT. 2 Subject to the provisions of numbered paragraph 10 hereof, and except on those lots designated as commercial lots, all lots are restricted to use for single family residential purposes only and no building shall be erected or maintained on any lot in said Subdivision other than a private residence, a private boathouse, a private storage building, and a private garage for the sole use of the owners or occupant. Lots 385 through 387 in Section 2 and 120 through 125 in section 2 inclusive, are designated as commercial lots and shall be used only for residential purposes as set forth above and/or retail sales establishments so conducted that they do not unduly conflict with the residential character of the Subdivision, and all provisions of these restrictions apply to lots designated as commercial lots unless commercial lots are specifically excluded from such provision.

- (A) No trade or business may be conducted on any lot, in or from any residential unit, **EXCEPT** that an owner or other resident of a residential unit may conduct business activities within a residential unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residential unit, (ii) the business activity does not involve persons coming onto the lot or door to door solicitation of owners or other residents in the community, (iii) The business activity does not constitute a nuisance or hazardous or offensive use that would threaten security of the residents in the community.

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The business activity does not constitute a nuisance or hazardous or offensive use that would threaten security of the residents in the community.

- (B) Oil well drilling, mining, oil refining, quarrying, oil tanks, mineral excavation operations are prohibited. Water wells are excluded. All State and County regulations must be adhered to as set forth in the HUD documents.

SECT. 3. Whenever reference is made to obtaining B.O.D. approval, it is also mandatory that a permit be obtained from the county courthouse. Subject to the provisions of numbered paragraphs 9 and 10 hereof (i) no use existing building or structure **REGARDLESS OF ITS ORIGIN** shall be moved onto, placed on, or permitted to remain on any lot; all construction must be of new material (except stone, brick, and inside structural material, if such use is approved in writing by the B.O.D.) and no tar paper type roof or siding materials will be used on any structure, and no flat sheet metal or corrugated tin material shall be used for siding, roofing, or skirting materials, not withstanding the use of some other approved material. No unapproved housing industry metal may be used for carports, garages, or roofs on any structure without written approval of the B.O.D., and (ii) the exterior of any building must be painted or stained. All buildings and structures shall be completely underpinned and under skirted with no piers or pilings exposed to view, and (iii) no natural drainage structure shall be altered, nor shall any drainage ditch, culvert, nor drainage structure of any kind be installed nor altered without prior written consent of the B.O.D and the Brown County Permit Office.

- (A) In addition to permits required in conjunction with B.O.D. approval, Brown County permits are also **required** for installing, modifying or repairing septic systems, or any construction, move-in of mobile homes and structures, dredging, altering of land or waterways or placement of fill. Property owners shall also comply with Brown County flood prevention orders. They are available at the Brown County permit office.
- (B) Any modification or repairs to existing electrical service shall be subject to NEC (National Electrical Codes).

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SECT. 4. No building exceeding two stories in height shall be erected on any lot. Each residential building subject to paragraph 9 and 10 hereof, shall have a minimum floor area of 720 square feet, exclusive of porches, stoops, open or closed carports, patios or garages.

SECT. 5. No building, fence, or other structure or improvements shall be erected, placed or altered, on any lot until two (2) copies of the construction plans and specifications, including specifications of all exterior materials and a plan showing the proposed location of the structure, have been submitted to and approved in writing by the B.O.D. as to harmony of external design with existing structures and as to location with respect to topography and finish grade elevation. If construction is not commenced within eight (8) months of such approval, the approval shall be null and void unless an extension is granted in writing.

SECT. 6. Fences shall be permitted to extend to the rear and front lot lines and to the side lot lines, but without impairment of the easements reserved and granted in these restrictions. Any reasonable damage by utility companies to any fence located in any utility easement shall be borne by the lot owner or purchaser and not by the utility company.

SECT. 7. No building or mobile home shall be located nearer to the side street line than ten (10) feet, or nearer to the side lot line or rear lot line than five (5) feet, or nearer to the front lot line than twenty (20) feet; provided, however, that the B.O.D. may allow lesser setbacks when unusual topography or design warrants it. "Side lot line" as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under a contract to be conveyed) the same person or persons and used as a single building site, shall thereafter mean each and/or other either of the two outermost side lot lines considering and contiguous whole and/or fractional lots is at least 50 feet at the widest portion thereof, but no other use may be made of any lot or fractional lot to the extent it has been grouped to alter minimum setback requirements.

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SECT. 8. (Updated 2010) No animals or birds, other than customary and ordinary household pets,(Dogs & Cats) shall be kept on any lot, and they shall be on a leash in the control of the owners or penned (fenced) at all times. Dogs being walked on Association property shall be on a leash no longer than twelve (12) feet and in the control of the owner. Dogs seen chasing the deer shall be put down after one verbal, one written and one certified notice to the owner if the owner can be identified. If ownership of the animal cannot be determined, the subject animal will be put down. 4-H type animals (goats, pigs, chickens, cows, horses, sheep, rabbits, ect.) are not permitted to be raised in Thunderbird Bay. There shall be no animal or fowl kept, maintained, or harbored within Thunderbird Bay which has fierce, dangerous, or vicious propensities; which has bitten, scratched, or otherwise attacked any person or any animal or fowl; which by loud, unusual, or prolonged barking or howling shall cause the peace and quiet of any neighbor, neighborhood or occupant of any adjacent premises to be disturbed; or which has repeatedly destroyed or damaged any property.

SECT. 9. Except as provided below in regard to camping, no outbuilding, boathouse, tool house, basement, or garage erected on any lot shall at any time be used as a dwelling, temporarily or permanently, nor any shack be placed on any lot, nor shall any residence of a temporary character be permitted. Mobile homes (including travel type trailers used as mobile homes) regardless of their origin may be placed and used upon any lot only if same have been inspected by, and prior written approval of same has been granted by the B.O.D and said BOARD may, as a condition to its said approval, make any requirement which in its judgment is deemed proper, including the following requirements:

- (A). That mobile home be of late model, in good repair, and of attractive design and appearance, underpinned within 90 days with material approved by the B.O.D.
- (B). That any mobile home not built by a commercial mobile home manufacturer be of a design, appearance and quality comparable to those built by commercial manufacturers, otherwise no mobile home shall be placed on any lot.
- (C). Separate water service shall be connected and an approved

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separated septic system **shall** be installed for each mobile home, each livable residence of any kind and each travel trailer and all sanitary plumbing and facilities **shall** conform to the requirements of the health departments of the County, State, of Texas, and the Texas Commission on Environmental Quality, prior to occupancy.

- (D). Camping on the lots shall be limited to use of campers, camping trailers, tents, or other camping shelters which shall be of good appearance and in good repair. Tents and similar types of temporary camping equipment may not be left on a lot unattended of more than 24 consecutive hours. Lots shall be kept free of litter, rubbish, trash, or other debris, and no unsanitary condition shall be allowed to exist on any lot, and otherwise comply with Section 13.
- (E). No lots shall be used as public R.V. parks and /or campgrounds.

SECT. 10. Easements are reserved along and within five (5) feet of the rear lines, front lines, and side lines of all lots in this Subdivision for the construction, operation, and perpetual maintenance of conduit poles, wires, and fixtures for electric lights, gas lines, telephone, water lines, sanitary and storm sewers, road drains and other public and Quasi-public utilities and to cut and/or trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines; with right of ingress to and egress from across said premises to employees of said utilities. It is understood and agreed that it shall not be considered a violation of the provisions of the easement if wires or cables carried by such pole lines pass over some portion of said lots not within the easements as long as such lines do not hinder the construction of buildings on any lots in this Subdivision.

SECT. 11. No outside toilet or privy shall be erected or maintained on any lot hereunder. The materials installed in, and the means and methods of assembly of, all sanitary plumbing shall conform to the requirements of the Health Department of the State of Texas, Brown County permit office, and Texas Commission on Environmental Quality. No sewage nor effluent shall be disposed of upon, in, or under any lot hereunder except into a septic tank or other approved system meeting the aforesaid requirements. Refer to Section 3 (a) for

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additional information.

SECT. 12. (Amended 2005 at Annual Membership Meeting) Members that have more than one livable residence shall be required to pay a complete set of assessments for each additional livable residence. Furthermore, any member that owns more than two (2) lots attached and/or unattached to the member's livable residence shall be required to pay an additional assessment of \$30.00 for each additional lot (amended 2008 annual meeting). (Revised annual meeting in 1996) No member who is in arrears in respect to the regular assessments and other special assessments as set forth in Article 1, Section 2 of the By-Laws Shall not be eligible to vote or speak at any meeting of the members.****(Amended 2005 at Annual Meeting) in respect to Thunderbird Bay Subdivision, or in any other accounts of the Association, Road Fund of \$45.00 annually (amended 2008 Annual Meeting), Pool Fund of \$50.00 annually (assessment voted in 2010 Annual Meeting). Dues of \$144.00 for two lots annually (updated in 2010 Board Meeting), (refer to addendum page) Such assessments may be used for the enforcement of these Subdivision Restrictions, and for the construction, reconstruction, improvements and maintenance of swimming pools, parks and other improvements in Thunderbird Bay Owner's Association and for Watch Patrol of Thunderbird Bay Owner's Association and any other uses approved by the B.O.D. of Thunderbird Bay Owner's Association, it being understood that said swimming pool, parks, and recreations areas are for the sole use and benefit of members of said Association, their families and authorized guests. Said assessment shall accrue from the earlier of the date of the agreement of deed from the seller to purchaser or of the conveyance of the seller. Such assessment shall be and is hereby secured by a contractual lien on each lot hereunder, respectively, and shall be payable to Thunderbird Bay Owner's Association (a Texas non-profit Corporation), its successors and assigns, the owner of said assessment funds, on June 30th each year commencing in 1977, at which date in the year 1977 and in successive years said assessment contractual lien shall be deemed to have attached, and there shall be no contractual lien securing said assessment until June 30th of each year.

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- (A) Failure to pay the assessments subjects the property owner to non-judicial foreclosure proceedings. Said assessment contractual lien shall be junior and subordinated to any lien which may be placed on any lot as security of interim construction loan and/or any purchase money loan for any lot on which a dwelling or building complying with these Restrictions has therefore been constructed.
- (B) Failure to pay the assessments before June 30th of each year will result in a late fee of \$25.00 every month until paid.****(refer to addendum page)(updated in 2009 Board Meeting)
- (C) Whenever properties are sold, the owner is obligated to comply with Texas Property Code, Chapter 5 Section 5.012 Notice of obligations, related to membership in Property Owner's Association. Refer to Article 1 Section 1 thru Section 4 and Article 2 Section 1 of the By-Laws for complete information.
- (D) A property owner's Association is typically a community of property and units occupied by the owners the majority of days out of any given time period. Therefore, on all properties and units which are occupied by someone other than the owner a majority of days out of any given time period, a contractual lien special assessment of \$600.00 per year will be placed on the property****(refer to addendum page) if an owner claims to have a lease-purchase agreement with the occupant, the owner will provide to the Association Board a copy of a duly executed and recorded lease agreement. Failure to do so within 10 days of a request to provide such, will revert the occupant to a renter status, and the owners property shall incur the \$600.00 special assessment. Also, the owner shall secure from the renter/lessee a written agreement to abide by all the covenants, conditions and restrictions contained in this declaration and the By-Laws. The owner shall furnish the Association an executed copy of the agreement.
- (E) An owner who fails to inform the office of the name and other information of a renter/leaser shall be assessed a \$50.00 per month contractual lien assessment for each month of failure to inform, in addition to the assessment in Section 12(c).
- (F) Property owner's shall be responsible and liable for non-owner residents complying with the By-Laws and Property Deed Restrictions.

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SECT. 13. Any building, structure, or improvement commenced upon any lot shall be completed as to exterior finish and appearance within six (6) months from the commencement date. No lot or portion of any lot shall be used as a dumping ground for rubbish or trash, nor for storage of items or materials (except during construction of a building), and all lots shall be kept clean and free of any boxes, rubbish, trash, inoperative motorized units, tall grass, weeds or other debris; and refrigerators, and other large appliances and furniture shall not be placed outdoors.

- (A) Due to dry seasons and resultant fire hazard, grass and weeds shall not exceed twelve (12) inches in height.
- (B) There shall be no missing or loose skirting or exterior covering, deteriorated or loose trim boards, broken glass panes on any facility.
- (C) All porches, decks and steps shall be safely functional at all times.
- (D) If the owner strongly desires to retain any of the afore listed items, a reproved six (6) foot high privacy fence shall be erected to completely enclose and screen all prohibited items from public view at all times.
- (E) Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm, or for any other cause or act of God, must be rebuilt or all debris removed and the lot restored to a sightly condition within a reasonable time, provided however, that in no event shall the debris remain on said lot no longer than six (6) months.
- (F) Facilities and/or properties which fail to meet the aforementioned requirements shall be considered to be substandard, abandoned, in a state of disrepair, or a health hazard. The B.O.D. shall have the option of:
 - 1. After property notifying the owner of record the B.O.D. shall have the right to enter the property and remove the incomplete structure, or remedy the violation at the expense of the offending party. The expense will become a non-judicial foreclosure contractual lien on the property.
 - 2. File a complaint with the Justice of Peace Court requesting him to declare a non-judicial foreclosure judgment on the owner and the property.

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3. Each owner, or by becoming the owner of a lot is deemed to covenant and agrees to pay all costs incurred by the Association in connection with enforcing or curing any violations of the declaration, and all such cost and expenses including but not limited to reasonable legal fees incurred by the Association in enforcing this declaration, whether or not a suit is filed, shall be charged as a non-judicial foreclosure contractual lien.
- (G) All new driveways or driveways being reworked shall have a functioning culvert pipe at least twelve (12) inches in diameter, or larger in the grade of the terrain requires such. It is the owners responsibility to keep the pipe and ditch operational.
- (H) There shall be no more than two (2) street legal vehicles (cars, trucks) per adult family member per livable residence. All of the vehicles shall be kept parked within the property owners lot lines. No non-operative cars, trucks, or other vehicles shall be kept on lots unless parked inside a garage or blocked from public view. Non-operative means unable, for 30 consecutive days, to be driven in the manner in which it was originally designed regardless of cause, or any such vehicle not currently licensed...****
- (I) All lots with a driveway shall have the county 911 numbers displayed on the property near the driveway but not in the right of way. If there are multiple driveways for the property, the number shall be located near the predominate driveway. The number shall be light in color, preferably reflective, not less than three (3) inches high, on a contrasting background. They shall be maintained in good condition at all times.

***If extenuating conditions exist, the B.O.D. may grant exemptions

SECT. 14. No lot or any part of a lot shall be used for a street, access road, or public thoroughfare without prior written consent of the property owners.

SECT. 15. No hunting and/or hunting devices, nor discharging of firearms shall be permitted on any lot or in any part of the Subdivision, except for the sole purpose of protecting ones self or another from harm. With the approval, and under the auspices of the B.O.D., discharging of firearms shall be permitted under exceptional conditions such as but not limited to enforcing Section eight (8).

- (A) Loud electronic and/or non-electronic sounds, including but not limited to boom boxes, loud exhaust systems, constantly barking dogs, are prohibited.

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- (B) Operators of conveyances, shall comply with all speed and traffic sign regulations.
- (C) There shall be no speeding, reckless unsafe antics, spinning out in loose gravel, trespassing on private property, or any other activity that constitutes reckless endangerment with respect to the operation of a motorized vehicles.
- (D) All posted B.O.D. approved safety rules shall be adhered to.

SECT. 16. Subject to the provisions of the last sentence of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property or here under, shall either (i) violate or attempt to violate any restriction or provision herein, or (ii) suffer to be violated with respect to the real property in which such person or entity has rights other than the right granted by this sentence any restriction or provision herein, it shall be lawful for Thunderbird Bay Owner's Association and/or any person or entity, as defined hereinafter, possessing rights with respect to any real property hereunder to prosecute any proceedings at law or in equity against any such person or entity violation, attempting to violate and/or suffering to be violated any restriction or provision herein to (i) prevent such violation, (ii) recover damages or other dues for such violation, and (iii) recover court costs and reasonable attorney's fees incurred in such proceedings. ****(refer to addendum page.) "Person or entity", as used in the next proceedings sentence hereof, shall include but shall not be limited to all owners and representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder. Notwithstanding any proceeding at law or in equity on account of any violation or attempted violation of any restriction or provision herein which occurs during such time as there is in force a contract to purchase the property where such violation or attempted violation takes places.

- (A) Texas Nuisance Abatement Statue Chapter 125 of the Texas Civil Practice and Remedies Code and Section 101.70 of the Texas Alcoholic Beverage Code will be utilized to the fullest ability of the Association and individual property owners whose rights are being violated by activities including but not limited to: excessive sound volume, loud parting, vulgar language, rowdiness, controlled substance abuse activities, and alcohol use in all prohibited areas of the subdivision, and noxious, illegal, or offensive activities that are or may become an annoyance or nuisance and which might also endanger the health or unreasonably disturb the quiet enjoyment of the owners and occupants of Thunderbird Bay.

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SECT. 17. Invalidation of any one or more of these covenants and restrictions by judgment of any court shall in nowise affect any of the other covenants, restrictions, and provisions herein contained, which shall remain in full force and effect.

SECT. 18. The foregoing restrictions and covenants run with and bind the land on all persons owning any of said lots or any part or parcel thereof for a period of fifteen (15) years following the date these restrictions are recorded, after which time the covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. This declaration may be amended in whole or in part at any time by an unanimous vote of the B.O.D. and a majority vote of the property owners in good standing at the annual meeting of Thunderbird Bay Owner's Association.

ADDENDUM

SECT. 12. The Contractual lien assessment is applicable only to rent/lease transactions initiating after the 2007 vote on these amended deed restrictions. Existing rental/lease agreements are Grand-fathered.

SECT. 16. Every property owner has the authority and the civic duty to bring legal action against any person or entity who violates or attempts to violate any Property Deed Restriction. The proceedings usually are processed through the Justice of Peace Court. A higher court can also be utilized.

SECT. 12. The Pool fund was voted on at the August 21st, 2010 annual meeting. The pool fund will be due by June 30th of every year. This is to help pay off the loan that was taken out to build our new pool house and repairs to the pool that was needed. The Association members also voted that the pool fund will only be for five (5) years.

SECT. 12. The Dues were raised 20% by the Board of Directors at a meeting prior to the Annual meeting of August 21st, 2010. The dues are now \$144.00 and they will be paid with the Road and Pool fund by June 30th, of every year.

SECT. 12. Failure to pay the assessments before June 30th of each year will result in a late fee of \$25.00 every month until paid. Voted in at a Board of Directors meeting in November 2009.

COUNTY OF BROWN

Witness my hand this day of , 2010.
I Patricia Diane Sharrer, a Notary Public, do hereby certify that on this the
day of , 2010, the Board of Directors of Thunderbird Bay
Owners Association, who each signed this document.
In witness whereof, I have hereunto set my hand and seal of the day and year
above written.
