

# TIMBER HILLS SUBDIVISION

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS           §  
                                           §       KNOW ALL PERSONS BY THESE PRESENTS:  
 COUNTY OF GRIMES           §

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR **TIMBER HILLS SUBDIVISION**, of Grimes County, Texas is made by **LANABI, INC.** a Texas Corporation, (the "Declarant") for the purposes set forth as follows:

### PREAMBLE AND DECLARATION

**WHEREAS**, Declarant owns the real property known as **TIMBER HILLS SUBDIVISION**, (the "Subdivision") which consists of 327.023 acres in the Robert P. Stewart Survey, A-414, and the Elizabeth J. Graham Survey, A-225, both of Grimes County, Texas, and which is described by the map or plat thereof recorded in the Real Property Records of Grimes County, Texas, under County Clerk's File No. 210564 and at Volume 1191, Page 465 *Map* Records, Grimes County, Texas (the "Plat"); and, *Real Property*

**WHEREAS**, Declarant has created a residential community with designated easements and lots for the benefit of the present and future owners within the Subdivision, and desires to create and carry out a uniform plan for the improvement, development and sale of the lots; and,

**WHEREAS**, Declarant desires to preserve the values of the Subdivision property and to this end desires further to subject the Subdivision to the covenants, Restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the owners thereof; and

**WHEREAS**, Declarant has deemed it desirable for the efficient preservation of the values of lots in the Subdivision to subject and bind the Subdivision to the jurisdiction and assessment of **TIMBER HILLS PROPERTY OWNERS ASSOCIATION** (the "Association") with the power and duty to maintain and administer these Covenants, Conditions and Restrictions (the "Restrictions") of the Subdivision and the power to administer and enforce the Restrictions and to collect and disburse the assessments and charges hereinafter created; and

**NOW, THEREFORE**, Declarant declares that the Subdivision, and such phases or additions thereto as may hereinafter be made, is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the following Restrictions, charges, and liens hereinafter set forth and shall hereafter be subject to the jurisdiction and assessments of the Association:

**ARTICLE I  
PURPOSE**

**TIMBER HILLS SUBDIVISION** is encumbered by this Declaration of Covenants, Conditions and Restrictions for the following reasons: to ensure the best and highest use and most appropriate development of the property; to protect the lot owners against the improper use of surrounding lots; to preserve so far as practicable the natural beauty of the property; to guard against the erection of poorly designed or proportioned structures or improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; to secure and maintain proper setbacks from streets; and, in general, to provide for development of the highest quality to enhance the value of investment made by owners of lots.

**ARTICLE II  
ADMINISTRATION**

**2.1 TIMBER HILLS PROPERTY OWNERS ASSOCIATION.** There shall be at all times a non-profit entity of perpetual duration known as "Timber Hills Property Owners Association", which shall serve:

- (a) to enforce these restrictions;
- (b) to collect the annual maintenance fee;
- (c) to enforce the liens reserved to secure payment of the annual maintenance fee;
- (d) to contract with and employ such persons and entities; and
- (e) to perform such other acts that shall be necessary and proper to carry out the intent and purposes of these Restrictions.

The Association shall be a "Property Owner's Association" under the terms of Chapter 202, Texas Property Code, as amended. Every owner of a lot (an "Owner") will be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot. On Association matters, and subject to the Bylaws of the Association, Owners shall be entitled to cast no more than one vote for each lot owned. The Association shall adopt bylaws to regulate its business and elections.

**2.2 OPERATION AND MANAGEMENT OF THE ASSOCIATION.** The business of the Association shall be conducted by a Board of Directors who will be selected solely by the Declarant as long as the Declarant owns lots in the Subdivision. After the Declarant sells all the lots owned by the Declarant, then the Declarant shall call for an election of a Board of Directors to be elected by the residents in accordance with the Bylaws of the Association. Once the new Board is so elected, the Declarant shall turn over to the Association all matters and funds and records pertaining to the Association. As long as the Declarant controls the Association, the term "Association" as used in these Restrictions shall mean and include the Declarant.

2.3 **ARCHITECTURAL CONTROL.** The following provisions apply to all lots in the Subdivision:

A. **Architectural Review.** No building shall be erected, placed or altered on any lot, parcel or tract (a "Lot") in this Subdivision until the Owner of such Lot has obtained the specific written approval of the Architectural Control Committee (the "Committee") and obtained a Building Permit from Grimes County, Texas, for such building or alteration, based on the final plans, specifications, or other information required by the Committee and submitted by the Owner. Only the Owner of a Lot may apply for approval of the Committee. The Committee shall review and decide on each Owner's application based on the location of the building or alteration on the Owner's Lot, the design, the exterior methods of construction, the color, texture, grade and quality of all exterior materials used in the construction or alteration, and whether or not the overall appearance of the proposed construction or alteration would be in harmony with other structures in the Subdivision or with the overall plan and scheme of development of the Subdivision. All such decisions by the Committee shall be based solely on the good faith opinion of the members of the Committee. Neither the Association, the Committee, nor any members of the Committee or of the Board of Directors of the Association shall be held or be considered as making any form of representation, warranty or assurance to any contractor, manufacturer, or to the Owner or any other person who may intend to reside in or use such building as to the fitness, suitability, or safety of any building or alteration which may be submitted to the Committee for review. It is understood that the members of the Committee shall be volunteers who shall not be held to any higher standard of knowledge, experience, training, or expertise than any other Owner in the Subdivision.

If the Committee fails to approve or disapprove the design and location of any proposed structure within **30 days** after said plans and specifications have been submitted in writing to it, and if no suit to enjoin the erection of such building or the making of such alterations, or to require the Owner of the Lot to remove such building or alteration, has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to be fully complied with. Notice of disapproval may be delivered in person or by certified mail, addressed to the Owner's last known address, and such notice will set forth in detail the elements disapproved and the reason therefore. Such notice need not, however, contain any suggestions as to the methods of correcting the matters and things disapproved. The decision of the Committee shall in all things be final.

In all applications for the Committee to review proposed construction or alteration, the Owners must expressly covenant and agree that the Owners and their Contractor shall actively protect the streets in the Subdivision from damage by trucks carrying loads in excess of the load limits of such streets, as determined by Grimes County, Texas, or any agency of the State of Texas. If any Owners or their contractor brings or causes to be brought into the Subdivision any trucks carrying excessive loads of construction materials, fill dirt, excavated dirt, bricks or concrete, then the Committee or the Association shall be entitled to stop all further construction activity on the Lot until the Owners, either alone or with all of their contractors, have repaired all damages done to the streets of the Subdivision and have furnished to the Association good and sufficient bond payable to the Association in an amount to be determined by its Board of Directors to provide for repair costs to the Subdivision streets for the next two years following the date the land is delivered to the Association.

B. **Committee Members**. The Committee shall consist of at least **three members**, who shall from time to time be appointed, removed and replaced by a majority of the members of the Board of Directors of the Association. Each member of the Committee must own at least one Lot in the Subdivision. No member of the Committee may vote on or participate in the consideration of an application pertaining to a Lot in which such member may own or have a substantial conflicting interest. For the purposes of these Restrictions, a conflict of interest would arise if a member either owned an interest in a Lot or if any determination by the Committee would have a direct, financial impact on a Lot owned by the Committee member.

C. **Committee Procedures and Charges**. The Committee shall make in its discretion all determinations called for in these Restrictions. Such Committee shall not be entitled either to file suit to enforce these restrictive covenants or to deny or withhold approval of any application for its consideration for any Lot solely because the Owner of such Lot may possibly be in violation of these restrictive covenants at a Lot that is different from the Lot under consideration at any time. The Committee may charge each applicant a reasonable fee to cover its normal and usual expenses, but the amount of such fee shall be determined by the Board of Directors of the Association. As a part of each application for new home construction, the Committee may require the Owner of the Lot to deposit with the Association a bond or a cash deposit in an amount determined by the Board of Directors to be reasonably sufficient to pay the costs of a resurvey, if needed, the costs of cleaning up construction trash and debris at the conclusion of construction, and the costs of leveling ruts and repaving or patching roads for damages caused by heavy vehicles at the building site.

D. **Variances**. The Committee, joined by a **two-thirds** majority of the members of the Board of Directors of the Association, may grant or permit variances of any of the matters provided by these restrictions for its review and determination, provided however, no variance shall permit or allow any Lots to be subdivided, any encroachment over any easements or boundary lines, allow any nuisance, defined below, to exist on any lot, or to be used for or to be burdened or encumbered with any easement or right-of-way into any tract or parcel of land outside the boundaries of the Subdivision, unless and until such easement or right-of-way shall be specifically approved by the Developer or the Board of Directors of the Association. No variance shall be granted which would operate as a nuisance to any other Owner of a Lot in the Subdivision. All variances shall be in writing and shall be filed in the Real Property Records of Grimes County, Texas.

### ARTICLE III RESTRICTIVE COVENANTS FOR USE OF LOTS

3.1 **RESIDENTIAL LOTS**. All Lots in the Subdivision shall be known and designated as "residential Lots", shall be used for residential purposes only, and shall be subject to all Restrictions, reservations, protective covenants, limitations and conditions of this document, including the following:

A. **Use**. No dwelling shall be erected, altered, placed or permitted to remain on any Lot other than a single residence, designated and constructed for use by a single family, together with such servants' quarters, garages, barns, and other structures as may be suitable and proper for the use and occupancy of said residents as a single family dwelling. No residence constructed on any

Lot shall be converted into or thereafter used as duplex, apartment house or any other form of multiple family dwelling. No residence or combination of residences on separate Lots shall be used or be advertised for use as hotels, "bed and breakfast" accommodations, tourist courts or tourist cottages, or as places of abode for transient persons.

B. **Area.** No dwelling shall be erected on any Lot, unless such dwelling shall have an interior living area of not less than **1700 square feet**. Dwellings may be single story, two-stories or one and one-half stories, and no dwelling shall be constructed of more than two stories in height. The square footage as set forth herein shall be exclusive of garages, porches, servants' quarters or other appendages. The "living area" of a home shall be that area served by the home's heating and air-conditioning equipment.

C. **Commercial Use Prohibited.** No residential Lot shall be used for any business purpose except that an Owner may maintain a "home office" provided there is no external indication that any business is being conducted on a Lot. An external indication of a business includes any one or more of the following:

- (1) employees, who do not live at the home, working at the home;
- (2) deliveries at the home of materials, products or supplies;
- (3) customers, salespersons or other agents of the business come to the home to purchase, deliver or pick up business materials, products, advertising materials, of any form, finished or not;
- (4) commercial vehicles are regularly parked at the home;
- (5) commercial equipment and machinery used in the business is used at the home;
- (6) the business is advertised in any medium showing the home address as a location of the business

Also, all model homes or homes used as temporary sales offices must be offered for sale, and such homes may not be used as such for more than **six months** after such homes have been completed.

D. **Employees.** Nothing in these Restrictions shall operate to prohibit any Owner from employing domestic, housekeeping, grounds-keeping and stable-keeping personnel to work at the Owner's home.

E. **Construction.** All materials used in the exterior construction of any residence or other structure and all methods of constructing foundations must be approved in writing and in advance by the Committee before any structure may be erected. Only new construction materials shall be used except for used brick which shall be permitted only as approved by the Committee. Buildings shall be built on a slab, or reinforced solid concrete beam foundation, or reinforced concrete block beam foundation. In no event shall any existing house, modular, or "manufactured" home built off the site be moved or installed on any Lot or Lots in the Subdivision. The exterior construction of any house, be it the primary residence, garage, porches, or appendages thereto, shall be completed within **ten months** after the start of the foundation, unless extended by the Committee

in writing. Foundation designers must take special precaution if any home could flood from steep slopes or nearby ditches.

F. **Set Back of Buildings.** All buildings and structures must be constructed, placed and maintained within the following set-back or building lines:

- Front (side facing Amelia Drive,  
or the Lots facing Fletcher Street).....50 feet
- Side.....25 feet
- Rear.....30 feet
- Side Adjoining FM 1485.....30 feet

In addition, no home or other improvement, whether permanent or temporary, may be placed to any extent in any drainage easement, utility easement, access easement or other easement or other use shown on the recorded plat or required by any governmental entity having jurisdiction of such matters. The Association may, by its Rules and Regulations, establish additional set back lines for other structures, such as recreational facilities (including pools, tennis courts and the like), animal quarters, barns, pens and other unusual control structures.

G. **Fences.** All fences shall be constructed of new materials and shall be of the designs permitted in the Fence Criteria for the Subdivision, set forth below. No perimeter fence may be installed outside the property lines of a lot, as shown on the Plat. The Committee may permit construction of fences to be built which are part of the architectural design of the main structure and are within the building setback lines for that Lot. All fences or walls located on his respective Lots are to be maintained at Owners' expense.

The Committee may grant variances to the aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls.

H. **Utility Easements.** No permanent fencing may be erected within any utility easements. For any Lot fully enclosed by fences, such fences erected across any utility easement shall contain a **twelve-foot** wide gate or two each **six-foot** wide gates, or one **twelve-foot** removable section which will be kept unlocked for access by public utility companies.

I. **Driveways.** For any Lot, driveways may be constructed across utility easements, but only at a location and in a manner that shall not interfere with or interrupt utility service for any home constructed on any other Lot. The driveway turnout shall be constructed in such manner as to provide an attractive transitional radius from the curb and gutter into the driveway entrance and shall prevent escape of drainage water from the street onto any Lots. Minimum driveway culvert shall be **18 inches** in diameter and may be larger as needed for drainage.

