

# TURKEY CREEK FOREST

## 55 PLUS COMMUNITY

---

### Amended Declaration of Covenants, Conditions and Restrictions

#### FOR TURKEY CREEK FOREST. A PLANNED UNIT DEVELOPMENT

THIS INSTRUMENT, made on the date hereinafter set forth and signed by the record owners of not less than eighty percent (**80%**) of the lots which are subject to the Declaration of Covenants, Conditions and Restrictions for Turkey Creek Forest, a Planned Unit Development, as per plats recorded in the Public Records of Alachua County, Florida, (see Appendix A),

#### WITNESSETH:

WHEREAS, the undersigned are the record owners of the not less than eighty percent (89%) of the lots in Turkey Creek Forest, a Planned Unit Development located in Alachua County, Florida; and

WHEREAS, the original Declaration of Covenants, Conditions and Restrictions recorded in the Public Records of Alachua County, Florida, as amended (see Appendix B) provides in Article VII, Section 5, Paragraph 2 that this Declaration may be amended in whole or in part, at any time by an instrument signed by the Board of Directors and approved by the record owners of not less than eighty percent (80%) of the lots; and

WHEREAS, Turkey Creek Forest is comprised of single family residences built on small lots with minimal setbacks, resulting in a close proximity of houses, limited parking space, a lack of sidewalks, narrow streets, low speed limits, one story buildings and central facilities located, constructed and adapted to accommodate the **needs** of older **persons**, and other significant facilities and services specially designed to meet the physical and social needs of older persons as required under Section **807(b)(2)** of the Fair Housing Act, with a goal to provide housing for persons aged **fifty-five (55) years** or older; and

WHEREAS, the undersigned desire that TCFOA, as hereinafter defined, have the power to enforce this Amended Declaration of Covenants, Conditions and Restrictions to restrict the use of the subject properties in accordance with United States Fair Housing Act, **42 U.S.C. ~3601 et seq.**, as amended; and

WHEREAS, it is the mutual desire and intent of the undersigned record owners to amend the aforescribed Declaration of Covenants, Conditions and Restrictions in its entirety to read as set forth herein:

NOW THEREFORE, the undersigned hereby declare that all of the properties subject to the Declaration of Covenants, Conditions and Restrictions as hereinabove described, shall be held, sold, leased or conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each record owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "TCFOA" shall mean and refer to TURKEY CREEK FOREST OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereinafter be brought within the jurisdiction of TCFOA.

Section 3. "Common Area" shall mean all real property (including the improvements thereto) owned by TCFOA for the common use and enjoyment of the owners.

Section 4. "Record Owner" shall mean and refer to the record owner(s) of the fee simple legal title To any designated lot within the properties.

Section 5. "Declarant" shall mean and refer to Robert L. Saunders, Jr. and William K. Saunders, Co-Partners doing business under the partnership name of Turkey Creek Forest, a partnership, or a **successor to said partnership who assumes the position of the developer of the Planned Unit Development.**

Section 6. "**Occupant**" shall mean and refer to any owner, tenant, lessee or other person(s) occupying or residing on a lot in Turkey Creek Forest.

Section 7. "**Executive Officer**" shall mean and refer to the president of TCFOA, or other(s) operating in his or her stead.

## ARTICLE II

### FAIR HOUSING ACT AND OCCUPANCY REQUIREMENTS

Section 1. Turkey Creek Forest is a Planned Unit Development intended and operated for occupancy by persons fifty-five (55) years of age or older, in accordance with the Fair Housing Act and the Declaration of Covenants, Conditions and Restrictions contained herein. To that end, TCFOA is empowered to adopt objective age verification procedures and to provide review of current residents as well as potential new residents, to ensure conformity with the Fair Housing Act.

Section 2. Each parcel shall be used and occupied by at least one resident who is fifty-five (55) years of Age or older, PROVIDED that this requirement shall be prospective in application, and shall not prohibit the use and occupancy of a lot by persons who used and occupied the lot prior to the date hereof. TCFOA reserves the right to permit the use and occupancy by residents all of whom are under fifty-five (55) years of age when the following conditions are met:

1. notwithstanding such use and occupancy, at least eighty percent (80%) of all occupied lots are occupied by at least one (1) resident who is fifty five (55) years of age or older;
2. at least one of the residents of die lot is either (i) a surviving or remaining prior occupant or heir in cases where death,

divorce, separation, or disability causes a resident's occupancy to terminate; or (ii) an employee or other agent of TCFOA who performs substantial duties directly related to management or maintenance of the property subject to the Covenants; and

**3. such use and occupancy does not cause the property subject to the Covenants to fail to qualify as "housing for older persons" within the meaning of the Fair Housing Act, 42. U.S.C. ~ 3601 et seq., as amended.**

Age verification procedures will require each occupant of each lot to provide proof of their age. Proof of age may be determined by providing copies of drivers' licenses or birth certificates.

**Section 3. This subdivision is designed to be housing for older persons and occupancy of all lots in Turkey Creek Forest is governed and restricted by the provisions contained in this Article. In addition to this Article, and not in limitation thereof, all residents must be mature adults, not less than eighteen (18) years of age. There shall not be more than three (3) persons occupying ft home regularly, except as guests, who may not reside with the residents, or Members, more than thirty (30) days per year without the prior written consent of the Executive Officer of TCFOA.**

## **ARTICLE III**

### **Property Rights**

**Section 1 Every record owner and occupant shall have a right and easement of enjoyment in and to the Common Areas and facilities which shall be appurtenant to and shall pass with the title to every lot including a perpetual non-exclusive easement for the benefit of each record owner or occupant and the lawful occupants of the lot and their guests, invitees and domestic help, and for the benefit of delivery, pick-up and fire protection services, police and other authorities of the law, mail carriers, representatives of utilities and other service personnel authorized to serve the lot, and holders of mortgage liens on the lot for ingress and egress over and across those portions of the Common Areas designed to provide access to and from any lot and i dedicated road, subject to the following:**

**A. The right of TCFOA to dedicate or transfer all or any part of die Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Boar d of Directors of TCFOA. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by members of TCFOA holding at least two-thirds (2/3's) of the voting rights.**

**B. The right of TCFOA to take such steps as are reasonably necessary to protect and conserve the Common Areas; to adopt and enforce rules and regulations regarding the use of Common Areas and facilities (including suspension of enjoyment rights for recreational facilities and reasonable fees for use of common facilities where appropriate); and to suspend the enjoyment rights (except egress and ingress) of any member during the period of such member's delinquency in payment of assessments pursuant to this Declaration.**

## **Article IV**

### **MEMBERSHIP AND VOTING RIGHTS IN TCFOA**

Section 1. Every person, group of persons or entity who is a record owner of a fee interest in any Lot, which is or becomes subject by covenants of record to assessment by TCFOA shall be a member of TCFOA; provided, however, that any such person, group of persons, or entity who holds such interest solely as security for the performance of an obligation shall not be a member.

Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons, or entity is the record owner of a fee interest in any Lot, all such persons shall be members and the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but no more than one vote shall be cast with respect to any Lot. Each such membership shall be appurtenant to the Lot upon which it is based and shall be transferred automatically by conveyance of that Lot.

Section 2. The provisions of this Article are to be amplified by the Articles of Incorporation and By-Laws of TCFOA; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Members set forth herein. In the event of any conflict between this Declaration and the Articles of Incorporation or By-Laws of TCFOA, this Declaration shall control.

## ARTICLE V

### **ASSESSMENTS**

Section 1. Each person, group of persons or entity who becomes a record owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall hereby be deemed to covenant and agree to pay to TCFOA (1) annual assessments or charges, and (2) special assessments to be fixed, established and collected from time to time as herein provided. The rate of annual assessments shall be established by the Board of Directors per annum for each Lot and may be increased or decreased by the Board of Directors of TCFOA each year but not be increased more than five percent (5%) above the annual assessment for the previous year without an affirmative vote of a majority of those members present at a meeting as hereinafter set forth in Section 5 of this Article. All funds generated by the assessments shall be used exclusively for maintenance, upkeep, insurance, taxes, and operating expenses of the common areas, including ordinary and reasonable administrative expenses and fees incident thereto. Any surplus of funds shall be held by TCFOA as a reserve against depreciation of improvements and for necessary capital expenditures in the Common Areas.

Section 2. Annual Assessments shall be payable in advance in either one payment or two equal installments, the first payable on January 1st of each year, and the second installment due on the following July 1st.

Section 3. The Assessment shall be the personal joint and several liability of each record owner of each lot and shall also constitute a lien on each lot as of January 1st of each year until the assessment is paid in full. Such lien shall be subordinate to the lien of any first mortgage and the transfer of title pursuant to a mortgage foreclosure shall extinguish the lien for any delinquent assessment. In the event assessment installments are not paid on the due date they shall become delinquent and shall bear interest after thirty (30) days in default at the rate of ten percent (10%) per annum for the full period of default. In the event any assessment or installment is placed in the hands of an attorney for collection, the person liable for payment agrees to pay all reasonable costs incurred in collection, including attorneys' fees. The lien for the assessment may be foreclosed under the same procedures for foreclosing a mortgage.

Section 4. In addition to the Annual Assessments, TCFOA may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, re-construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3's) of the members' voting rights who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 1 or 4 shall be sent to all members not less than twenty (20) days nor more than forty (40) days in advance of the meeting. At the first such meeting called, the presence of at least two hundred twenty five (225) members or proxies entitled to cast votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one hundred thirteen (113) members with voting rights. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 6. Both annual and special assessments must be fixed at a uniform rate for all lots.

## **Article V1**

### **ARCHITECTURAL CONTROL AND OTHER RESTRICTIONS**

Section 1. All and each of the following restrictive conditions and covenants contained in this Article shall continue in force from the date of this instrument until January 2000, A.D. After said date these covenants shall be automatically extended for successive periods often (10) years, unless an instrument signed by a majority of the then owners has been recorded, agreeing to change said covenants in whole or in part

Section 2. Any construction commenced upon said property shall be completed within six (6) months from the date of the first delivery of any materials to the site of said construction.

Section 3. No mailbox or mailbox stand shall be erected separately. All mailboxes be placed on common mailbox stands as provided. No paper or newspaper receptacles of any land shall be erected or maintained either in street easements or within fifty (50) feet of street easements.

Section 4. No trade, business, service, professional care, instruction or manufacture of any land or nature whatsoever shall at any time be conducted on any of the land in this subdivision, or in any manner which will cause prospective customers or other business invitees to come into this subdivision, nor shall any building erected thereon be used for any such purposes. Except it is expressly permitted that the Declarant or any builder of single family homes in this subdivision may use such homes as model homes, and may sell those homes or other single family residences from those homes. No other trade or business other than the sale of single family residences will be permitted from those homes, and only the builder of those homes may use such homes as models.

Section 5. No land in this subdivision, nor any building erected thereon, shall be used or occupied injuriously to affect the use, occupation or value of the adjacent premises for residence purposes and the neighborhood wherein said premises are situated.

Section 6. All lots, tracts, or parcels of land in this subdivision shall be kept in a good state of repair, appearance, and the property to be kept correspondent with the better surrounding properties and no waste or damage to the premises shall go unrepaired. This shall apply both to the premises and improvements located thereon.

Section 7. No horse, cow, hog, goat or similar animal shall be kept or maintained on said property or any portion thereof, nor, shall any chicken

yards be maintained thereon.

Section 8: No trailer, utility trailer, campo^trailer, boat, bus, motor home or truck over three-quarter-ton (3/4) capacity shall be parked or maintained on said property or common areas, or any portion thereof for more than a twenty-four (24) hour period.

Section 9. No outside television antennas or radio antennas or C.B. base stations shall be placed or rnaintained on any of the properties of this subdivision. Care should be taken that nothing shall be placed in this sub-division that will detract from the properties and/or then environs.

Section 10. No repair work on automobiles or mechanical vehicles, or any other like work, shall be performed on said property or any portion thereof.

Section 11. No building, fence or any other structure shall be erected, placed or altered on any lot in this subdivision until the plans have been approved as to conformity and harmony by the executive officer of TCFOA or his or her designate. Detailed plans for any proposed construction shall be submitted in writing on the proper TCFOA form to the executive officer of TCFOA or his or her designate. In the event that said plans are not approved or disapproved within thirty (30) days after submission, this requirement shall be deemed to have been complied with.

Section 12. The construction on any lot, tract or parcel shall be in conformity with the setback restrictions as to any lot lines under the rules and regulations of the governing body having jmsisdiction of same in which this property is located.

Section 13. Invalidation of any one of these covenants by judgment of court order shall in no wise affect any of the other provisions which shall remain in full force and effect

Section 14. All easements shown on the recorded plat may also be used for drainage purposes.

## **ARTICLE VII**

### **General Provisions**

Section 1. TCFOA, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, hens and charges now or hereafter imposed by the provisions of this Declaration, and to recover damages, including costs of enforcement and reasonable attorneys' fees. Failure to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. In the event TCFOA shall fail to pay taxes or assessments levied by a governmental authority on die Common Area or facilities before such taxes become delinquent, the governmental authority shall be entitled to a lien upon each lot on account thereof for the fractional share of said taxes or assessment due determined as follows:

The unpaid taxes owed by TCFOA shall be divided by the number of lots subject to the membership of TCFOA. The quotient shall be the fractional share. This provision is for the benefit of the governmental authority levying such tax or assessment and shall in no way affect the responsibility of TCFOA to each record owner to pay such taxes and assessments on Common Areas.

Section 3. In the event of Eminent Domain proceedings whereby an award is made or negotiated concerning Common Areas or Facilities, such award shall be payable to TCFOA and used for the purpose of TCFOA. Any award for the taking of all or part of an individual parcel shall belong to the record owner of such lot, his heirs or assigns.

Section 4. Nothing contained herein is intended or shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Area or Facility by any Governmental unit or utility.

Section 5. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by TCFOA, or the record owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless terminated or amended by a vote of the record owners of not less than eighty percent (80%) of the lots.

This Declaration of Covenants, Conditions and Restrictions, except Article VI, Architectural Control and Other Restrictions, may be amended in whole or in part at any time by an instrument signed by the Board of Directors and approved by the record owners of not less than eighty percent (80%) of the lots, as evidenced by the certification of the secretary of TCFOA.

Section 6. All record owners of lots agree that no agency of government will be required to assume maintenance of Common Areas. Further, if for any reason, it should become necessary after a request from TCFOA that a public agency maintain said Common Areas or other-wise expend public funds in connection with said Common Areas, such public funds shall be reimbursed to the public agency by TCFOA, and in order to secure the repayment thereof, an equal pro rata share of such reimbursement obligation shall immediately become a lien on each individual lot to be enforced in the same manner as an assessment under this Declaration.

IN WITNESS WHEREOF, the undersigned, being the record owners of not less than eighty percent (80%) of the lots in Turkey Creek Forest have set their hands and seals on the dates herein below written.

**I CERTIFY that the aforementioned is a true and accurate copy of the Amended DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, and that this Amendment was approved by the signing of the record owners of over eighty percent (80%) of the lots in Turkey Creek Forest, as recorded in the Alachua County, Florida Original Record Book 2062, pages 842 through 1161.**

**Given under my hand and seal of**

**TURKEY CREEK FOREST OWNERS ASSOCIATION, INC. this the 24th day of May 1996.**

**Helen G. Pringle, Secretary**

**Appendix A**

The Declaration of Covenants, Conditions and Restrictions for Turkey Creek Forest, a Planned Unit Development, as per plats recorded in the Public Records of Alachua County, Florida, as follows:

<u>Turkey Creek Unit</u>	<u>Plat Book</u>	<u>Page No.</u>	<u>Lots</u>
1	J	7	201-255 & 270-356
1	J	74	256-269
2	K	11	32-124
3A	M	26	388-409
3B	M	50	436-457
1	M	53	265
3C	M	80	376-379 & 410-435
3D	M	98	357-375 & 380-387
4	M	99	125-200
5	O	91	8-31
1	P	3	246

**APPENDIX B**

The original Declaration of Covenants, Conditions and Restrictions of Turkey Creek Forest is recorded in Official Record Book 1066, Page 587 of the Public Records of Alachua County, Florida and amended in the Public Records as follows:

Official Record Book	Page
<i>ivvy 1</i>	S77



1219	751
1219	752
1320	329
1618	1611
1653	2042
1677	1824
1685	1839
1746	725
1746	727