

## Living with the CC&Rs

### Highlights for Annual Meeting, September 2021

#### INTRODUCTION

We've been pleased to welcome a number of new owners in Timber Cove over the last few years; some have bought already established homes, others, undeveloped lots they may plan to build on soon or hold for future development. Every lot in our Subdivision comes with legally binding obligations upon every owner to comply with the recorded Conditions, Covenants and Restrictions (the CC&Rs) that control land use within Timber Cove. On first encounter, the CC&Rs can appear complicated, confusing and burdensome, both for new owners and long timers. Our office has been fielding a number of inquiries and it is apparent that there is misinformation about the CC&Rs and the Association floating around. That misinformation might come from the opinions or misunderstandings of realtors, prior owners, neighbors or former directors, and it can confuse or mislead folks about their legal obligations. Therefore, we felt it important to provide some general orientation about how the CC&Rs operate, highlighting some primary concerns and procedures.

#### I.

The CC&Rs, together with the Unit Two Subdivision Map, and the Timber Cove Homes Association ("TCHA", "the Association") which enforces the CC&Rs, were all created together, around 1965, by the original subdividers, to preserve and protect the look and feel of the uniquely beautiful natural environment of the subdivision. These elements work together. The Map shows the boundaries of lots, and the locations of roads and easements. The CC&Rs lay out the land use rights and restrictions that apply to all lots in our Subdivision. The Association, a nonprofit California corporation, is mandated under the CC&Rs and the Corporate Articles to interpret and enforce the CC&Rs to protect and preserve the quality of our environment.

It's important to keep in mind that the CC&Rs are not the only rules that govern land use in Timber Cove. State and County laws also apply, including the Coastal Commission which has jurisdiction in our area. State and County fire abatement programs are of crucial importance. And in addition to the CC&Rs and Bylaws of the Association, there is major state legislation, the Davis Stirling Act, which comprehensively governs the operations of all California homeowners' associations, from large urban condo projects to modest rural subdivisions like Timber Cove

The TCHA Bylaws which govern the homeowners' Association were last amended in 2019 by a vote of all Association members. As updated with our attorney, the Bylaws were carefully aligned with the essential purposes of the CC&Rs, to focus Board activities on necessary functions that protect and benefit ALL members, such as architectural review, road repair and maintenance, insurance protection and legal compliance, while controlling administrative costs. We included provisions to promote transparency, ethical standards and accountability. It's important to recognize that the CC&Rs, as enforced by the Association through the Board of Directors, are not merely informal, advisory or optional; they are legally binding on all owners. And the Association is not a social club or voluntary recreational organization, it holds legal powers and obligations, to interpret and enforce the CC&Rs.

As clearly stated in the Declaration of the CC&Rs, "The purpose of the [CC&Rs] is to maintain for the benefit of Declarant [the Subdividers] and all subsequent individual landowners, insofar as it be possible,

the natural character of the land and to require that all man-made structures blend into the natural background rather than stand out against it.”

The CC&Rs’ concern to protect the unspoiled look and feel of Timber Cove is embodied primarily in detailed rules that govern all new construction and landscape projects, which are subject to control of the Association through a design review and approval process. All non-natural, man-made structures in the subdivision, including sheds and fences, are regulated, as are landscape plantings and tree removal. Home design and approval, and limitations on how properties can be used, form the core of the CC&Rs; we’ll offer more detailed explanation about that shortly.

To accomplish their stated purpose, the CC&Rs set forth a number of specific restrictions binding on all owners. The overriding theme that runs through all these requirements is to limit disturbance, distraction or change to the native environment. Manmade “improvements” are intended to be located, designed and constructed to provide minimal visual distraction from the natural woodland environment, not to intrude, or stand out, or clash with the natural features, as viewed from roads or neighboring lots.

The subdividers clearly intended that the unspoiled forest be the predominant visual feature of our subdivision. There is special concern to provide an attractive, natural appearance of all properties as viewed from public roads such as Highway One and Timber Cove Road, as well as from neighboring homesites, relying on rules for structure location, design, and natural screening to achieve that objective.

**Here are some key provisions:**

Timber Cove is intended for private residential use only. Other kinds of non-residential or commercial uses are not permitted. Allowance is made for artist studios and professional offices used by the residents.

The buildable area of each lot is defined. Proposed design plans for homes and all manmade structures must be approved in advance by the Association to confirm compliance with detailed guidelines. Detailed specifications about home design features and construction materials are intended to create structures that harmonize unobtrusively with the physical environment and other homes, and to avoid creating distracting or garish visual nuisances.

Landscaping is regulated to encourage native species and to prevent removal of mature trees, especially redwoods or screening trees. Signage is controlled by the Association.

Permitted owner land uses that might cause a nuisance to neighbors are subject to regulation. For example, owners are allowed to keep two horses on their lots, but they must first obtain approval for the location and design of any proposed stable from the Association, which is empowered to regulate their activities. Permission to maintain horses can be revoked if necessary to prevent a nuisance to neighbors, or jeopardy to health or safety.

There is no question that some of the details recited in the text of the CC&Rs can seem arbitrary, overly restrictive or dated. But the overall purpose is intended to benefit ALL owners---to set clear, fair and uniform rules and expectations, to protect the natural appearance and wellbeing of our wooded rural

environment, to avoid distracting or annoying artificial nuisances and unwanted intrusions on neighbors and to sustain and enhance the value of all our properties.

It's important not to 'lose sight of the forest for the trees', if you'll forgive an obvious pun. Even if they are imperfect, the CC&Rs have, in fact, historically served essential and valuable functions that benefit all Timber Cove property owners: to protect and preserve the uniquely beautiful and unspoiled natural environment that brought us all here. The evidence of their continuing value surrounds us today. After nearly 60 years, we still enjoy a largely undisturbed forest and hillside environment of exceptional and enduring natural beauty. That is a priceless achievement.

## II.

Let's look briefly at the issues related to the CC&Rs that surface most often and are of greatest concern: **Home design and construction; use of RV's; landscape and tree removal:**

### 1. Obtaining approval for new construction or remodeling:

- a. Carefully review and familiarize yourself with the CC&Rs. If you are using an architect, make sure he or she carefully reviews the CC&Rs before beginning design and when submitting plans.
- b. If you have questions about requirements or necessary submittals, contact the Design Review Committee of the Board.
- c. Be sure your proposed improvement is properly sited within the designated building envelope for your lot.
- d. Submit plans as requested, calling attention to any proposed deviations from the CC&R requirements, together with process fees.
- e. The Design Review Committee will review and provide comments. Nearby neighbors will be consulted. Any problem issues will be addressed, and reasonable resolutions pursued.
- f. construction cannot begin until formal written approval of the final plans has been recommended by the Design Committee and approved by a vote of the Board.

The Board does have some flexibility in enforcing the CC&Rs so long as their primary purposes are met. We start with the guidelines of the CC&Rs, and aim for consistency, fairness, and reasonableness. Much depends on the specific details of each case, including topographical and physical circumstances, existing vegetation and neighborhood conditions.

After consultation with neighboring owners, the Board may be able to treat limited deviations from the strict specifications in the CC&Rs with some degree of flexibility especially if the structures are unobtrusively located or screened so that they are not readily visible to neighbors or passersby.

The best way to learn the limits of what's possible is to contact the Board early, with a specific description of the planned structure, its location, and its visible impact, not just a conceptual word picture or rough sketch.

### 2. Rules regarding house trailers and Recreational Vehicles

a. The CC&Rs do not allow owners to maintain an RV or trailer as a living space except for a **limited period** while they are actively constructing a home **AFTER** the design has been formally approved by the Board.

Historically, we believe this restriction has not always been strictly enforced in those limited circumstances when owners used their RVs to visit their lots only for a very brief period, e.g., a couple days or a weekend, so long as neighbors did not complain.

b. RVs are totally prohibited from lots on the ocean side of Highway One, regardless of timing or circumstance.

c. Owners who live in homes on their lots are permitted to park an RV or house trailer near their home within the designated building envelope of their property, but only if hidden from view by a covering structure approved by the Association. The Board is happy to work with owners to fulfill those requirements in a non-burdensome fashion as conditions allow. So, if a homeowner can discreetly park their RV on a portion of their lot where it is not visible to neighbors or passersby, that might be workable. Limited use of physical or landscape screening can be another simple, relatively inexpensive solution.

### **3. Landscaping and tree removal**

a. The CC&R's prohibit the removal, or planting, of trees without Association approval. Special protection is afforded to redwoods. The Board appreciates concerns to remove dead or dying trees for fire abatement purposes or to prevent property damage or personal injury. If you have such a situation, you are requested to contact the Board for inspection and approval of the proposed work. The County and Coastal Commission may also have approval requirements; the mechanism of coordination among agencies is currently under discussion. Approval by the Association is a necessary condition in any case.

### **III. Conclusion**

In sum, to benefit us all, the CC&Rs are intended to preserve the unspoiled natural character of our uniquely beautiful environment, free of distraction, intrusion or nuisance, so that each resident can develop and enjoy their property, preserve their privacy and tranquility and avoid undesirable impacts on their neighbors. That's a reasonable goal we can all respect and benefit from.