

**AMENDED, EXTENDED AND MERGED RESTRICTIVE COVENANTS**  
**DECLARATION OF RESTRICTIONS**  
**FOR**  
**CAPE CONROE, SECTION I AND SECTION II**

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

This ~~Amended, Extended and Merged Restrictive Covenants~~Declaration of Restrictions for Cape Conroe, Section I and Cape Conroe, Section II is executed on the date hereinafter set forth by Cape Conroe Property Owner's Association, Inc. (the "Association"). This Declaration of Restrictions replaces, amends and supercedes the Amended, Extended and Merged Restrictive Covenants for Cape Conroe, Section I and Section II, recorded on April 28, 2002 in the Official Public Records of Real Property of Montgomery County, Texas, under Clerk's File No. 2002-041158.

**WITNESSETH:**

**WHEREAS**, Cape Conroe Property Owners Association, Inc. is the property owners association (as that term is used and defined in Section 202.001 of the Texas Property Code) for Cape Conroe, Section I and Cape Conroe, Section II, a subdivisions in Montgomery County, Texas, according to the map or plat thereof recorded in Volume 10, Page 7 and Volume 10, Page 30 of the Map Records of Montgomery County, Texas, respectively (collectively the "Subdivision"); and

**WHEREAS**, the Subdivision is was subject to certain covenants, conditions and restrictions as set out in that certain instrument for Cape Conroe, Section I, and recorded in Volume 772, Page 407 of the Deed Records of Montgomery County, Texas, and the restrictive covenants which had been made and filed for Cape Conroe, Section II and recorded in Volume 789, Page 346 of the Deed Records of Montgomery County, Texas (collectively the "Original Declarations"); and

**WHEREAS**, the Original Declarations were amended, extended and merged into one instrument in 2002, as set out in that instrument entitled Amended, Extended and Merged Restrictive Covenants for Cape Conroe, Section I and Section II, recorded on April 28, 2002 in the Official Public Records of Real Property of Montgomery County, Texas, under Clerk's File No. 2002-041158 (the "Amended Declaration"); and

**WHEREAS**, Section 209.0041 of the Texas Property Code provides that unless the restrictive covenants applicable to a subdivision provides for a lower percentage, restrictive

covenants may be amended only by a vote of sixty-seven percent (67%) of the total votes allocated to the property owners ~~in the property owner's association; and~~  
entitled to vote on the amendment; and

WHEREAS, the Amended Declaration provides that the owners of fifty-one percent (51%) of the lots in the Subdivision may amend or change the restrictions by their written and recorded vote; and

WHEREAS, the property owners having the requisite number of votes in the Association desire to amend the ~~Original Declarations and restate and consolidate them into one instrument that is applicable to Cape Conroe, Section I and Cape Conroe, Section II~~ Amended Declaration; and

WHEREAS, the requisite number of property owners have approved this Declaration of ~~Amended and Restated Reservations, Restrictions and Covenants for Country Run Subdivision Cape Conroe, Section I and Section II~~ and voted to amend and restate said ~~Original~~ Amended Declaration as herein provided;

NOW THEREFORE, in consideration of the premises and pursuant to the authority of Section 209.0041 of the Texas Property Code, the property owners in the Subdivision, acting by and through the Association, adopt, reaffirm and ratify the following ~~Amended, Extended and Merged Restrictive Covenants~~ Declaration of Restrictions for Cape Conroe, Section I and ~~Cape Conroe, Section II~~ (the "~~Amended Restrictions~~ Declaration"), and declare that the Subdivision shall be developed, improved, held, used, sold and conveyed in accordance with and subject to the following easements, restrictions, reservations, dedications, covenants, conditions and stipulations, all of which are hereby adopted for and placed upon the Subdivision and which shall run with the properties in the Subdivision and be binding on all parties, now and at any time hereafter, having or claiming any right, title or interest in the Subdivision or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of or the manner in which any such right, title or interest is or may be acquired, and all of which shall inure to the benefit of each owner of any part of the Subdivision.

**1.- DEFINITIONS**

1.1. "Architectural Control Committee," "Committee" or "ACC" shall mean the Architectural Control Committee as provided for in Article 3.A.

1.2. "Association" shall mean Cape Conroe Property Owners Association, Inc., a Texas nonprofit corporation, its successors and assigns, acting through its employees, property manager and Board of Directors and officers.

1.3. “Board” shall mean the Board of Directors of the Association.

1.4. “Declaration” shall be this Declaration of Restrictions, which is also known and commonly referred to as Deed Restrictions.

1.5. “Governing Documents” shall be: (a) Articles of Incorporation or Certificates of Formation, as it may be amended, filed with the Secretary of State of Texas; (b) Bylaws, as it may be amended; and (c) all documents, policies, rules and regulations of the Association to include but not limited to Architectural Guidelines, Board Policies and Home Building Requirements, which may be modified from time to time at the sole discretion of the Board for the betterment of the Association. This definition does not include the Declaration.

1.6. “Lot” shall mean a Lot, whether one or more., shown upon the Subdivision Plat which is restricted to use for Single-Family residential dwellings only.

1.7. “Commercial Lot” or “Commercial Lots” shall mean Lot 1, Block 1 and Lots 1-6, Block 2, of CAPE CONROE, SECTION I; and Lots 1-3 and Lots R-18 through R-22, Block 1, Lots R-23 through R-27, Block 10 and Lot 1, Block 11, of CAPE CONROE, SECTION II.

1.8. “Member” shall mean those persons who are the Owners of properties which are subject to a maintenance charge assessed by the Association and who are entitled to membership in the Association. The Association shall have only one class of voting membership.

1.9. “Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties. In the event of the execution of a contract for sale covering any Lot, the “Owner” shall be the purchaser named in the contract. This definition excludes those having an interest in the Lot merely as security for the performance of an obligation and those having only an interest in the mineral estate.

1.10. “Properties” shall mean that certain real property and portions of same in this Subdivision and any additional properties made subject to these terms pursuant to the provisions set forth in this Declaration.

1.11. “Single-Family” shall be a husband and wife, two parents/partners, or an individual, with or without children or grandchildren (natural, adopted, or foster), Mother and/or Father, Mother-in-law and/or Father-in-law, or the Legal Guardians of such children.

1.12. “Subdivision” shall mean Cape Conroe, Section I and Section II, identified on the Subdivision Plat.

1.13. "Subdivision Plat" shall mean the map or plat of Cape Conroe, Section I, recorded in Volume 10, Page 7, and Cape Conroe, Section II, recorded in Volume 10, Page 30, of the Map Records of Montgomery County, Texas.

## 2. CAPE CONROE PROPERTY OWNERS ASSOCIATION

There shall be at all times a non-profit ~~association~~corporation known as "Cape Conroe Property Owners Association, Inc." (the "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) contract with and employ such persons and entities as deemed necessary to carry out the duties and functions of the Association, and (e) 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 "~~P~~roperty ~~O~~wners ~~A~~ssociation" under the terms of ~~Chapter 202, the~~ Texas Property Code, as amended. Every ~~o~~wner of a lot will be a ~~m~~ember of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot. On Association matters, ~~m~~embers in good standing (defined below) shall be entitled to ~~cast no more than one~~ vote for each lot owned. ~~The phrase, "members in good standing" shall mean those owners of lots in the Subdivision who have paid all Maintenance Fees, interest and attorneys fees charged upon or applicable to their lots in the Subdivision~~as set out in the Bylaws of the Association. The Association shall adopt bylaws to regulate its business and elections. The business of the Association shall be conducted by a Board of Directors who shall be elected by the ~~m~~embers pursuant to the Bylaws of the Association.

## ~~23. BUILDING PERMITS AND~~ ARCHITECTURAL CONTROL ~~COMMITTEE~~ AND BUILDING PERMITS

The following provisions apply to all ~~l~~ots in the ~~s~~ubdivision, including residential and commercial:

- A. **Architectural Review.** No building shall be erected, placed or altered on any ~~l~~ot, ~~parcel or tract (a "lot")~~ in this ~~s~~ubdivision until the ~~o~~wner of such ~~l~~ot has obtained the specific written approval of the Architectural Control Committee (~~the "Committee"~~) for such building or alteration, based on the final plans, specifications, or other information required by the Committee and submitted by the ~~o~~wner. Only the ~~o~~wner of a Lot may apply for approval of ~~the Committee and only an owner who is a member in good standing and current in paying the maintenance assessments shall be entitled to obtain architectural approval by~~ the Committee. The Committee shall review and decide on each ~~o~~wner's application based on the location of the building or alteration on the ~~o~~wner's ~~l~~ot, 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 proposed construction or alteration would be in harmony with other structures in the Subdivision.

All 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. The Committee shall promulgate Architectural Guidelines, and shall make reasonable rules and application forms for its purposes, provided such guidelines and rules are consistent not inconsistent with these Restrictions this Declaration, and are approved by the Association's Board of Directors.

The Committee shall endeavor to determine all applications as quickly as possible, however, the passage of time following the date an Owner submits an application shall not operate as approval of the Owner's application. An application shall not be considered as made unless and until the Owner completes all application forms adopted by the Committee and provides final plans and descriptions of all materials and colors to be used. An application shall not be considered as approved by the Committee unless and until the Committee specifically approves an application and provides the Owner with the Committee's written approval. Notice of disapproval shall 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 therefor. Such notice need not, however, contain any suggestions as to the methods of correcting the matters and things disapproved.

All applications for the Committee to review shall be deemed as including the covenants and conditions set forth below, which shall be binding on the Owner and all contractors, subcontractors and suppliers, regardless of whether or not such persons joined in the application:

- B. **Protection of Streets.** The Owner and all contractors 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 Montgomery County, Texas, or by any agency of the State of Texas. If any Owner or 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 Hlot until the Owner either alone or with all of his contractors shall have repaired all damages done to the streets of the Subdivision to the satisfaction of Montgomery County, Texas.

C. **Committee Members.** The Committee shall consist of at least three members, who shall be annually appointed by the Board of Directors, and may be removed and replaced by a ~~2/3~~ vote of the members of the Board of Directors of the Association. ~~Upon the effective date of these Amended Restrictions all Committees in Section I and Section II shall end and a single Committee shall be appointed by the Board of Directors of the Association to serve until their successors are appointed.~~ All members of the Committee shall be ~~property~~ Owners in the Subdivision. No member of the Committee may vote on or participate in the consideration of any Hlot in which such member may have a conflict of interest. For the purposes of these restrictions, a conflict of interest would arise if a member either owned an interest in a Hlot or any determination by the Committee would have a direct, material financial impact on a Hlot owned by the member.

D. **Committee Procedures and Charges.** The Committee shall make in its discretion all determinations called for in ~~these restrictions~~ this Declaration. 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 Hlot solely because the Owner of such Hlot may possibly be in violation of these restrictive covenants at a Hlot that is different from the Hlot 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 Hlot to deposit with the Association a bond or a non-refundable cash deposit in an amount determined by the Board of Directors to be reasonably sufficient to pay the costs of an inspection, if needed, the cost of consultants, the costs of cleaning up construction trash and debris at the conclusion of construction, and the costs of leveling ruts caused by heavy vehicles at the building site.

E. **Variances.** The Committee, joined by a 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 encroachment over any easements, boundary lines, or allow any nuisance that is defined below. All variances shall be in writing and

filed in the Official Public Records of Real Property Records of Montgomery County, Texas.

- F. **Appeal.** Any Owner who disagrees with any determination of the Committee, whether for that Owner's Lot or on the Lot of another Owner, and before any construction approved by the Committee commences, may appeal the determination of the Committee to the Association's Board of Directors. For the purposes of this provision, "commence" means and includes execution of a contract to construct improvements as approved by the Committee, or if no contract is signed, then upon the Owner's or Contractor's first purchase of substantial materials for such construction.

### **34. COMMERCIAL LOTS**

~~All lots in Cape Conroe, Sections I and II, including those originally designated as "reserved" or "unrestricted" in the Original Restrictions and the Plats, shall hereafter be called "Commercial Lots" and shall be subject to the provisions of these Amended Restrictions~~this Declaration, including, but not limited to, those providing for architectural control, garbage and trash disposal, garbage services, nuisances, the locating of easements and building lines set forth in the recorded plats, temporary structures and residences, fences and plants, signs, access, driveways, culverts, utilities, resubdivision, firearms, inoperable vehicles and vehicles left out overnight, materials stored on Lots, bulkheads; and the maintenance fund, ~~and the duration of these amended restrictions.~~

### **45. RESIDENTIAL LOTS**

Except for the Commercial Lots as described in the preceding paragraph, all other Lots in the Subdivision ~~shall be known and designated as "residential lots" and~~ shall be used for residential purposes only, and shall be subject to the following restrictions, reservations, protective covenants, limitations and conditions:

- A. **Use.** No dwelling shall be erected, altered, placed or permitted to remain on any of said Lots other than a single residence, designated and constructed for use by a single familySingle-Family, together with such servants' quarters, garages and other structures as may be suitable and proper for the use and occupancy of said residents as a single familySingle-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, nor shall any residence or combination of residences on separate Hlots be advertised for use or used as a boarding houses, day-care facilities, halfway houses, nursing homes, rehabilitation or therapy facilities, churches or places of religious assembly, hotels, tourist courts or tourist cottages or as places of abode for transient persons. All construction shall be new construction, so that no used homes or used construction materials shall be incorporated into any home on any Hlot.

**B. In Cape Conroe, Section I:**

1. No single-story dwelling shall be erected on any Hlots in Block Three (3), unless such dwelling shall have an exterior area of not less than 1800 square feet. One and one-half story houses shall contain at least 1400 square feet on the ground floor and containing a total exterior area of at least 1700 square feet. Two story houses shall contain at least 1400 square feet on the ground floor and contain a total exterior area of 1800 square feet. The square footage as set forth herein shall be exclusive of garages, porches, servants' quarters or other appendages.
2. Except for ~~the areas listed under~~ Commercial Lots ~~above~~ and all Hlots in Block Three, no single-story dwelling shall be erected on any Hlot in the ~~s~~Subdivision unless the same shall have an exterior area of not less than 1700 square feet. One and one-half story houses shall contain at least 1200 square feet on the ground floor and shall contain a total exterior area of at least 1600 square feet. Two story houses shall contain at least 1000 square feet on the ground floor and shall contain a total exterior area of 1600 square feet. The term "exterior area" as used herein and hereafter shall be exclusive of garages, porches, servants' quarters or other appendages. A house may be constructed on two adjacent Hlots, astride across the common interior Hlot line, provided such interior Hlot line does not include any easements. No building or structure shall be occupied or used until the exterior thereof is completely finished. No building may be erected between the building line as shown on the recorded plat and the street. No building shall be erected nearer than four feet to any side street Hlot line or interior Hlot line.
3. Except for townhouses, which may be erected on Hlots 27 through 45, and Hlots 47 and 48, in Block 1, and on Hlots 1 through 44 in Block 7, no building or structure shall be erected on any Hlot nearer than four feet, including roof overhang, from any interior Hlot line. For Hlots 27 through 45 and 47 and 48, of Block 1, any owner of two or more adjacent Hlots may erect on such Hlots a residence that is not a townhouse design, but that meets the exterior area requirements ~~of subparagraph 112" above~~ herein and that meets approval of the Committee. The foregoing

notwithstanding, the building lines and easements as set forth on the recorded map or plat of the sSubdivision shall control where applicable.

4. All townhouses erected shall have an interior living area of not less than 1200 square feet. A townhouse may be constructed on two adjacent Hlots, provided the common Hlot line has no easements. All common or party walls between townhouses shall be built as firewalls under rules and regulations issued by the Committee and all such firewalls shall extend at least two feet above the highest roofline where any two townhomes meet.

C. **In Cape Conroe, Section II:**

1. ~~Lot Nos.~~Lots T-1 through T-72, in Block 14 are designated as townhouse Hlots. Further, Lots 4 through 54, in Block 1 and Lots 1 through 8 and Lots 27 through 48, in Block 5, may be either for a single dwelling or may be subdivided as townhouse Hlots; provided however, in the event any such lot is subdivided into townhouse Hlots, each such subdivided townhouse Hlot shall have a minimum front footage width of 25 feet.
2. All townhouses erected shall have an interior living area of not less than 1700 square feet. A townhouse may be constructed on two adjacent Hlots astrideacross the common interior Hlot line, provided such common Hlot line has no easements. All common or party walls between townhouses shall be built as firewalls under rules and regulations issued by the Committee and all such firewalls shall extend at least two feet above the highest roofline where any two townhomes meet.
3. All dwellings erected on Lots 1 through 21, in bBlock 14 shall have an exterior area of not less than 1800 square feet. One and one-half and two story houses shall contain at least 1800 square feet on the ground floor and shall have an exterior area of not less than a total of 1800 square feet. The term "exterior area" as set forth herein shall be exclusive of garages, open porches, servants' quarters and other appendages.
4. No single-story dwelling shall be erected on any of the remaining residential Hlots in the sSubdivision not specifically referred to in the two preceding sub-paragraphs unless said dwelling shall have an exterior area not less than 1700 square feet. One and one-half and two story houses shall contain at least 1200 square feet on the ground floor and shall contain a total exterior area of at least 1800 square feet. The term "exterior area" as set forth herein shall be exclusive of garages, open porches, servants' quarters and other appendages. A house may be constructed on two adjacent Hlots, astrideacross the common interior Hlot line, provided such common Hlot line has no easements.

5. No building or structure shall be occupied or used until the exterior thereof is completely finished. No building may be erected between the building line as shown on the recorded plat and the street. No building shall be erected nearer than four feet to any side street Hlot line or interior line.
  6. Except for townhouses, no building or structure shall be erected on any Hlot nearer than four feet, including roof overhang, from any interior Hlot line. The foregoing notwithstanding, the building lines and easements as set forth on the recorded map or plat of the subdivision and the easements hereinafter described shall control where applicable.
- D. **Townhouses.** For all townhomes, the party wall shall be the common wall between any two townhomes, and shall be for the mutual benefit and support of the townhomes using such wall. Each townhouse owner shall have an easement over, under or across each of the townhouse Hlots that share a party wall with such townhouse, except that such easement shall not apply to the interior living space of any of the adjoining townhouse Hlots. Such easement shall be solely for the purpose of repairing, maintaining, rebuilding of a townhouse, including foundation repair. No townhouse owner shall be entitled to conduct any repairs to that owner's townhouse, its interior, exterior or subsurface if such repairs would damage any portion of the interior, exterior or foundation of either of the adjoining townhomes. If any two adjoining townhomes are damaged to the extent that the party wall between them must be rebuilt, either in whole or in part, then the owner who pays the cost of rebuilding such party wall shall have a lien upon the adjoining townhouse Hlot to the extent of one-half of the cost of rebuilding or repairing such party wall. Such lien shall not apply to the cost of sealing the party wall for use as an exterior wall. Such lien may be enforced only when the owner of the townhouse lot who did not pay the cost of rebuilding such party wall begins construction of a townhouse which shall use the repaired party wall as part of such townhouse. The townhouse owner claiming a lien may file for public record an affidavit claiming such lien.
- E. **Commercial Use Prohibited.** Other than Commercial Lots, in no event shall any ~~residential~~ Hlot be used for any business purpose. Any builder with two or more completed homes for sale may use no more than one such homes as a model home or a temporary sales office. 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.
- F. **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~~brick, which shall be permitted only as approved by the Committee. No concrete blocks shall be used in the construction of exterior, above-ground walls except the fire wall of a townhouse. Buildings shall be built on a slab, or reinforced solid concrete beam foundation, or reinforced concrete block beam foundation. Townhouses will have a two hour resistive fire wall for the party wall and a rain water drain pipe will run under the house from the front to the lake. Each house shall have an attached or detached garage designed to hold at least two automobiles. In no event shall any existing house, modular or "manufactured" home built off the site be moved or installed on any hLot or hlots in the sSubdivision. The exterior construction of any house, be it the primary residence, garage, porches, or appendages thereto, shall be completed within six months after the start of the foundation, unless extended by the Committee in writing or prevented by force mays majeure. Such extensions shall not be unreasonably withheld. Foundation design must take special precaution if house could flood from steep slopes or nearby ditches. Window air conditioning units and foil or aluminum window coverings are expressly prohibited, unless said units or coverings are not visible by the public.

## **56. GARBAGE AND TRASH DISPOSAL**

For all hlots in the Subdivision, including ~~residential and c~~Commercial hlots, all household garbage, trash and landscaping waste shall be removed from the Subdivision and properly and lawfully disposed of at least once a week. No hlot shall be used to store rubbish, trash, garbage or other waste. All household garbage and trash shall be kept in outside containers, and all such containers shall be kept closed and clean at all times. Except for the days of garbage pick-up, and the evening preceding such days, all household garbage and trash containers shall be kept out of view from the roadways.

## **67. NUISANCES**

- A. **Definitions.** At all times, each hlot in the Subdivision ~~whether residential or c,~~ including Commercial hlots, shall be kept free of nuisances, which means, but is not limited to, the following:
1. objectionable, detrimental, offensive, dangerous, or unattractive conditions, as determined by the Board of Directors of the Association in its reasonable discretion; are expressly prohibited in the Subdivision.
  2. open pits, abandoned wells, and ponds that are not cared for and which become havens for insects and other pests; are expressly prohibited in the Subdivision.

3. ~~g~~Grass, weeds and wild brush more than one foot in height, except for state protected wild flowers; is expressly prohibited on Lots.
4. ~~p~~Privy, cess pool, outdoor toilets (except during construction), untreated septic and gray water drainage; are expressly prohibited on Lots.
5. No animals, livestock, pigs, poultry of any kind ~~that are~~may be kept, raised, or bred on any hLot except for ordinary household pets, such as dogs and cats. All pets, including dogs and cats, shall be kept within a fenced or walled enclosure and not allowed to run loose; Invisible fencing shall be permitted, provided it prohibits household pets from running loose.
6. ~~o~~Oil and gas exploration and development operations of every kind and character, oil refining, quarrying or mining operations of any kind, including wells, tanks, tunnels, derricks, pumps and the like; are expressly prohibited in the Subdivision.
7. ~~t~~Construction equipment and machinery, trucks larger than one-ton, tractor-trailer rigs, commercial trucks and delivery vehicles not being actively used in home construction and street repair are expressly prohibited in the Subdivision, and shall not be parked on the streets of the subdivision;

~~8. operation of;~~

8. Storage pods or containers shall only be used or stored on a Lot for a maximum of five (5) consecutive days, unless approved by the Board for an additional period of time.

9. If permitted by law, golf carts operated by a properly licensed driver may be operated on roads within the Subdivision, but the operation of any other recreational, off-the-road vehicles including all terrain vehicles (ATV's), off-road motorcycles, and other off-road vehicles such as "go-carts", "dune buggies", and the like; are expressly prohibited anywhere in the Subdivision, whether on the hLots or on the roads of the Subdivision; ~~unless operated by properly licensed drivers and registered as an over-the-road vehicle;~~

910. pParking or storing on any hLot or roadway any trailer, whether commercial or otherwise is expressly prohibited, except ~~those designed and used for recreational purposes, specifically~~ boat trailers (whether with or without a boat), personal water craft trailers (whether with or without a personal water craft), and recreational camping trailers, such as "pop-up" tent trailers, ~~and;~~

10 which are permitted. Work trailers, such as flatbed, utility or similar trailers, may be stored on a Lot behind a fence and out of public view. Utility or cargo trailers may also be parked on the driveway of a Lot, but only for forty-eight (48) consecutive hours, and not more than two (2) times in any calendar month. Parking of 18-wheeler cabs, or vehicles with a weight in excess of one ton, in the Subdivision, is expressly prohibited.

11. No vehicle may be parked in the streets or in any driveway, HLot or reserve unless such vehicle is in good, driveable condition. No vehicle shall be parked in such a manner or at any location that poses a hazard to normal traffic, such as blocking normal traffic visibility.

12. Holiday lighting and decorations should be removed from any visible location on a Lot within thirty (30) days following the holiday.

13. No Owner shall make, cause, allow or permit a sound nuisance. The Board may make such rules as are reasonably necessary to prevent noise from becoming a nuisance, including, but not limited to, setting maximum decibel levels, setting directional requirements of sound-emitting devices, and setting times of day for operation of sound-emitting devices.

B. **Abatement of Nuisances.**

1. **Entry.** If the Association determines in its discretion that a nuisance, as defined above, exists on any HLot, the Association shall give written notice of such condition to the oOwner, who must remove such nuisance at no cost to the Association within ten (150) days after the oOwner receives such written notice. The Association's written notice must be sent by U.S. Mail, certified or registered, or be delivered personally to the oOwner or to the oOwner's duly designated agent. If the Association determines in its discretion that any nuisance poses an immediate and substantial risk of harm to the persons or the property of any one or more of the other residents of the Subdivision, or if the HLot oOwner fails for any reason to remove the nuisance within the time provided by the written notice, then the Association shall be entitled to enter the HLot and, if necessary, remove and dispose of the nuisance, without being guilty of trespass, conversion, or any tort or other civil wrong. In taking such action, the Association shall act in good faith and not in any arbitrary or capricious nature or manner. The Association shall seek advice of counsel and shall follow legal rules and procedures. This provision shall not permit any entry into any home without the homeowner's consent.

2. **Costs and Expenses.** The oOwner of any HLot having the nuisance shall be liable to the Association for its reasonable costs and expenses in removing and abating the

nuisance, including its reasonable attorney's fees. To the extent necessary to carry out this provision the Association shall have an easement on, over and across the Lot for the purpose of abating and removing any nuisance, in addition to all other rights at law or equity. No Hot Owner shall be entitled to require the Association to take any action to abate or remove a condition that may be a nuisance if the Association has determined in its discretion that such condition is not of a nature that requires entry onto a Hot and removal of a nuisance.

## **78. EASEMENTS**

Certain easements are reserved over and across Hlots in the subdivision, including ~~residential and c~~ommercial Hlots, as indicated on the recorded subdivision ~~as indicated on the recorded subdivision p~~lat, and as further set forth herein, for the purpose of furnishing and moving of all electric power, water, sewage, drainage, telephone services and petroleum substances in and through the subdivision. All contracts, deeds and conveyances of any of said Hlots or portion thereof are hereby made subject to such easements. In addition to those easements referred to above and shown on the plat, additional easements are hereby dedicated for uses outlined as follows:

### **A. In Cape Conroe, Section I:**

1. An **eight foot** wide easement along the rear lot line of Lots 29, 35, 36, 37, 72, 77, in Block 2.
2. A **five foot** wide easement along the front lot line of Lots 72, 73, 74, 75, 76 and 77, in Block 1.
3. A **sixteen foot** wide easement along the rear lot line of Lots 6, 7, and 8 of Block 5.

### **B. In Cape Conroe, Section II:**

1. The most northeasterly five feet of Lot 11, in Block 17.
2. The most southwesterly five feet of Lot 12, in Block 17.
3. The most southwesterly five feet of Lot 25, in Block 12.
4. The most northeasterly five feet of Lot 26, in Block 12.
5. The most northeasterly five feet of Lot 8, in Block 12.
6. The most southwesterly five feet of Lot 9, in Block 12.
7. The most southeasterly five feet of Lot 7, in Block 14.

8. The most northwesterly five feet of Lot 8, in Block 14.

Such easements also include the right to remove all trees and weeds within the easements if such vegetation prevents the effective use of easements. To maintain effective use of easements all such easements further include the right to trim trees and shrubs located on the property belonging to or being a part of this ~~s~~Subdivision.

### **89. TEMPORARY STRUCTURES AND RESIDENCES**

For all ~~H~~lots in the ~~s~~Subdivision, including ~~residential and c~~Commercial ~~H~~lots, no trailer designed for habitation, mobile home, tent, shack, or barn shall be moved upon or built upon such ~~H~~lot in this Subdivision nor shall any detached garage or other out building be used as a temporary (~~\*permanent or permanent~~ residence in this ~~se~~ Subdivision. Any ~~o~~Owner may install an exterior storage structure on that ~~o~~Owner's ~~H~~lot provided such ~~o~~Owner obtains advance, written approval of the Committee for such structure. All such exterior storage structures shall only be kept in the rear or back yard of any residence and shall be kept from view from the streets of the Subdivision to the greatest extent possible or practicable. Above ground swimming pools, playground equipment, tree houses, swing sets, trampolines and similar recreational items and improvements are permitted, but must be located behind fencing; provided, however, that the Board may approve alternate locations on a case-by-case basis, in its sole discretion.

### **910. FENCES AND WALLS**

For all ~~H~~lots in the ~~s~~Subdivision, including ~~residential and reserved H~~Commercial ~~L~~ots, no fence or wall shall be located between any Street and any Building Line. All fences built of lumber shall be treated to retard decay. No fence or wall may be higher than six feet, six inches ~~unless approved in writing, in advance, by the Committee.~~

### **101. SIGNS**

For all ~~residential H~~lots ~~and c, including C~~Commercial ~~H~~lots, in the ~~s~~Subdivision, no signs of any kind shall be displayed to the public view on any tract or ~~H~~lot except no more than one sign advertising the property for sale or signs used by a builder or ~~o~~Owner to advertise the property during the construction and sales period. Signs may be placed only on the particular property that is for sale. A ~~c~~Commercial ~~H~~lot may have one commercial sign which has been approved in advance by the Architectural Control Committee. Owners of waterfront ~~H~~lots may place two signs on their ~~H~~lots advertising such ~~H~~lots for sale, but only one of such signs may face the street and the second sign

must ~~then~~ face the Lake Conroe shoreline. Political signs and religious displays shall be permitted in accordance with applicable law and policies of the Board of Directors.

## **112. ACCESS**

For all Hlots in the sSubdivision, including ~~residential and c~~Commercial Hlots, no driveways or roadways may be constructed on any Hlot ~~in this subdivision~~ that will furnish access to any adjoining Hlots or property, without the express written consent of the Committee.

## **123. DRIVEWAYS**

For all Hlots in the sSubdivision, including ~~residential and c~~Commercial Hlots, all driveways and other areas used for stopping, parking or driving must be paved before any new house may be occupied in this sSubdivision. All secondary or additional driveways must first be approved by the ACC and paved in accordance with plans first approved by the ACC. All parking lots and driveways must be paved before used by any commercial business in this sSubdivision.

## **134. CULVERTS**

For all Hlots in the sSubdivision, including ~~residential and c~~Commercial Hlots, all drain tileslines and culverts or culverts in any drainage ditch (including road) ditches shall have inside diameter of at least the size required by Montgomery County, Texas for such uses, and such tileslines or culverts must be approved in advance of installation by the Committee and by any governmental entity exercising control over drainage. Natural drainage of streets and roadway ditches shall not be impaired by any person or persons. The Association may remove any culvert that obstructs the flow of water through the street ditches.

## **145. UTILITIES**

Each and every residence shall be required to connect to the water and sewer lines as soon as they are made available. Dwellings in the Subdivision may use electricity or natural gas from utility companies that distribute such products. No tanks with a capacity of more than 100 pounds may be installed at any dwelling for propane, butane or other forms of energy without advance approval by the Board of Directors. Such approval shall depend upon the decision of the Board after

taking into consideration the location of the dwelling involved, safety of the persons involved and in the Subdivision, and the risk of harm to the environment.

### **156. RESUBDIVISION**

No ~~H~~Lot ~~whether residential or c~~, including Commercial Lots, may be resubdivided without the written approval of the Committee, and the Board of Directors of the Association and must comply with applicable government regulations for resubdivision or replatting.

### **167. FIREARMS**

The discharge of firearms is expressly prohibited within the ~~s~~Subdivision. The Association shall not be responsible for safety and security.

### **178. MATERIALS STORED ON LOTS**

On all ~~H~~lots in the ~~s~~Subdivision, ~~whether residential or c~~including Commercial Lots, no building material or debris of any kind shall be placed or stored upon any ~~H~~Lot except during construction.

~~18~~ A Lot Owner may not re-build or tear down any home which has been damaged by fire, flood, tornado, or any other natural or man made cause without first submitting plans for such work to and getting the written approval from the ACC. For burned homes, a maximum time allowance for demolition is nine (9) months from the date of the fire. The property shall be barricaded to prevent access from the date of the fire, through demolition and until all debris is removed. For burned or tear-down homes, a maximum time allowance for reconstruction is nine (9) months from the date reconstruction is started. Prior to demolition, an assessment will be made by a certified inspector. Once material is removed, a follow up framing inspection will be conducted to assure no further removal is necessary. Additional inspections, including energy and final inspections must also be completed. Certifications by a licensed electrician for the electrical system, licensed plumber for the plumbing system and licensed HVAC technician for the mechanical system will be required if any portion of the existing systems are to be kept, noting that each system is in good working order.

### **19. LANDSCAPING**

Before any landscaping shall be done in the front of any newly constructed dwelling, the landscape layout and plans shall first be approved by the ACC. Such landscaping is to be done on the front of the Lot at the time the dwelling is being completed and before occupancy. Corner lots

shall also be landscaped on the side yard area. Landscaping shall be maintained by the Lot Owner at all times.

## 20. LAKE FRONT LOTS

For all Lots, whether townhouse or otherwise, that border Lake Conroe, only bulkheads, piers and boat docks may be built on a lakefront HLot prior to building a residence on any such HLot, and such structures must be approved in advance of construction by the Committee, as with other structures. Once a bulkhead is built on a HLot the Owner of such HLot shall be obligated to maintain such bulkhead in good repair and appearance. If a bulkhead on any HLot either meets or extends across a vacant HLot, the Owner of either adjoining HLots shall have an easement over and across the vacant HLot for the purpose of maintaining the bulkhead. If the Owner of any lakefront HLot, fails to maintain or repair the bulkhead on that Owner's HLot and in order to repair such bulkhead and prevent further damage either the Owner of an adjoining HLot or the Association or both must incur reasonable and necessary expenses to maintain or repair any part of a bulkhead, such parties shall have a lien upon the HLot where the repairs are made to the extent the Owner of the HLot where the repairs are made either fails or refuses to repair the bulkhead, or to pay the proportionate part of the repairs that apply to such HLot.

For such purposes, the Owners of lakefront HLots and the Association shall have an easement to enter over and across any lakefront HLot for the purpose of repairing any bulkhead, and such parties shall not be guilty of trespass. Before such repair easement or lien or both may be effective, the parties desiring to enter a lakefront HLot for such repairs shall give the Owner of the HLot to be affected by the repairs no less than 30 days advance written notice of the need repairs by U.S. certified mail, addressed to the Owner of such HLot as reflected on the current books and records of the Association.

## 1921. MAINTENANCE FUND

The following charges and obligations apply to all HLots in the SSubdivision, including ~~residential and c~~ Commercial Lots.

- A. **Administration.** The Maintenance Fund shall be administered, held, collected, and disbursed by the Cape Conroe Property Owners Association, Inc., a Texas nonprofit corporation ~~(the "Association")~~. The business and affairs of the Association shall be managed by its Board of Directors, who shall be elected by and shall serve terms of office as provided in its Bylaws.
- B. **Determination.** Each HLot shall be subject to an annual maintenance fee in an amount to be ~~recommended~~ determined by the Board of Directors of the Association ~~by in accordance with~~ its annual budget ~~which must be determined and submitted for~~

~~approval shall be announced~~ at ~~an~~the annual membership meeting of the Association. Annual membership meetings shall be held on the date specified for such meetings in the Association's Bylaws. ~~At such meeting a quorum, as specified by the Bylaws must be present and such matter must pass by a majority of the votes present at such meeting, whether in person or by proxy. If any recommended increase is not approved, then the Maintenance Fee then in effect shall remain in effect.~~ The annual maintenance fee shall be collected and dispersed by the officers of the Association or by their designated agents.

- C. **Collection.** All past due maintenance fees shall bear interest from their due date at the rate of eighteen percent (18%) per annum until paid, provided however, the Board of Directors of the Association may set a lower rate for any fiscal year by an appropriate resolution adopted prior to the beginning of such year. Such maintenance fees shall be a covenant running with the land, and to secure payment thereof, a ~~Mechanic's L~~maintenance lien is hereby retained on each HLot by the Association, subject and inferior, however, to a purchaser money lien or construction money lien, or both.
- D. **Adjustment.** Such annual maintenance fees may be adjusted at any time on any HLot by the Board of Directors as may be required by any "Housing Authority" or "Regulating Agency" or "Governmental Agency" to meet any requirements or rules of such Agencies.
- E. **Lien.** There is hereby reserved, set over and transferred ~~into~~unto the Association a maintenance lien upon each lot in the Subdivision to secure payment of the annual maintenance assessment. Such lien automatically attaches to and applies against each HLot and shall remain first, primary and superior to all titles, liens and interests in each HLot in the Subdivision except that such lien shall not be superior to any bona fide purchase money vendor's lien or builder's and mechanic's lien for the construction of a dwelling upon any HLot. Such lien shall secure payment of the annual maintenance fee, and all interest, and attorney's fees to become due and payable to the Association for any HLot.
- F. ~~Foreclosure. This lien so established, may be foreclosed upon after notice of delinquency to the owner of any lot, as and in the same manner as is provided for the~~Foreclosure. Said lien is to be enforceable through appropriate proceedings at law by the Association, as applicable; provided, however, that each such lien shall be secondary, subordinate, and inferior to all liens, present and future, given, granted and created by or at the instance and request of the Owner of any such Lot to secure the payment of purchase monies for such Lot or monies advanced or to be advanced on account of the construction of any improvements on any such Lot to the extent of

~~any such maintenance charge accrued and unpaid prior to~~ foreclosure of ~~a mortgage upon real property under the laws of the State of Texas. Any such action of foreclosure will entitle the lienholder to reasonable attorney's fees and other allowed costs and penalties.~~

~~G. any such purchase money or construction lien.~~

G. **Application of Funds.** Funds arising from such maintenance fee shall be applied, so far as sufficient, toward the common good of the community, civic betterment, municipal, educational and public recreational purposes (but not by way of limitation) as follows:

1. To render constructive civic welfare for the promotion of the social welfare of the community and of the citizens of the Subdivision, to arouse civic consciousness by means of active participation constructive projects which will improve the community, state and nation.
2. To promote and provide community services and educational and public recreational services and facilities for residents of the Subdivision.
3. To acquire, maintain and construct buildings and property for public services and educational and recreational facilities.
4. To do any other thing necessary or desirable or of general benefit to the ~~community~~Subdivision.

## 202. **DURATION AND AMENDMENT OF RESTRICTIONS**

A. ~~**Term.** For Cape Conroe, Section I, the effective date for these Amended Restrictions is May 1, 2002. For Cape Conroe, Section II, the effective date for these Amended Restrictions is September 29, 2002. For both sections, these amended restrictions shall remain in full force and effect until midnight June 30, 2010. Thereafter these restrictions shall be automatically renewed for additional. These covenants in this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date this Declaration is first recorded after which time said covenants shall automatically be extended for successive periods of ten (10) years each ~~unless the owners of at least 51% of the lots in the subdivision shall, by instrument in writing duly placed of record, elect to terminate or amend these restrictions and the force and effect thereof.~~~~

~~B. , unless six (6) months prior to the end of either the initial forty (40) year term or any successive ten (10) year term, by the affirmative vote, in person or by proxy, of not less than majority of all of the Members as defined herein entitled to vote on same, vote to terminate said covenants in whole.~~

~~B. **Amendment During Term.** At any time after the effective date, other than the dates specified above, 80% of the members. This Declaration may be amended at any time by the affirmative vote, in person or by proxy, of not less than a majority of all of the Members as defined herein entitled to vote on the amendment. Any such amendment shall become effective when the amendment as certified and acknowledged by an officer of the Association's Board of Directors and the owners of two-thirds of the lots in the entire subdivision may amend or change these restrictions by their written and recorded vote. For any such amendment to become effective all voting by the Board of Directors and the owners must be completed and recorded within the same twelve-month period.~~

~~21 Association as having been properly amended under this section is filed for record in the Official Public Records of Real Property of Montgomery County, Texas. No action to challenge the validity of an amendment may be brought more than 2 years after its recordation.~~

### 23. MISCELLANEOUS PROVISIONS

The following provisions apply to all Hlots in the sSubdivision, including ~~residential and~~ cCommercial Lots:

- A. **Benefit.** All covenants and restrictions are for the benefit of the entire sSubdivision and shall be binding upon and enforceable by the Association, and every purchaser, ~~his (her)~~ purchaser's successors, heirs and assigns.
- B. **Severability.** Invalidation of any one of the covenants or restrictions by judgment or any court shall in no way affect any of the other provisions which shall remain in full force and effect.
- C. **Application.** All of the restrictions, easements and reservations herein provided and adopted as a part of said sSubdivision shall apply to each and every Hlot and when such Hlots are conveyed the same shall be conveyed subject to such restrictions and reservations as contained herein, and also such limitations as are shown on the maps or plats of Cape Conroe, Section I and Cape Conroe, Section II, Montgomery County, Texas. When Hlots with such reservations, easements, restrictions, etc., are so referred to by reference thereto in any such deed or conveyance to any Hlot or Hlots in said sSubdivision the same shall be the same force and effect as if said restrictions,

covenants, conditions, easements and reservations were written in full in such conveyance, and each contract and deed shall be conclusively held to have been so executed, delivered and accepted upon the express conditions, reservations, easements and restrictions as herein stated and set forth.

D. **Enforcement.** Enforcement of these restrictions and covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate the same, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitory or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the ~~Owner~~ Owner of any of said ~~lots~~ Lots or by the Association, or its successors or assigns.

~~E.~~ **E. Fines.** The Association may levy a reasonable monetary fine against an Owner for a violation of this Declaration and/or the Governing Documents. Such fines shall constitute a lien upon the Owner's Lot and shall be collected in the same manner as the maintenance charge. The Board shall determine a fine policy.

**F. Entitlement to Amenities' Use.** Every Owner, whether one or more persons or entities, shall be allowed to use all of the amenities provided by the Association, including but not limited to, boat ramps, swimming pools, parks, and any discounts provided to Members to any of the facilities operated by the Association. The use of the Association's amenities is subject to being suspended if:

1. an Owner is delinquent in the payment of any assessment, fine, or any other charge set forth in this Declaration, for so long as the delinquency remains unpaid; or

2. an Owner has an outstanding violation of the Declaration or the Governing Documents of which Owner has been sent written notice both to cure and to request Board hearing, for so long as the violation continues.

**G. Paragraph Headers and Fonts.** The paragraph and section names, headers and other uses of various fonts in this document are to facilitate the reading of this document and are not used to affect meaning of the text.

**FH. Transition.** From and after the effective date of this document, any home or structure built or altered according to the standards of the original restrictions in effect for Cape Conroe, Section 1, and for Cape Conroe, Section 2, and for which written approval had been granted or waived by the Committee, shall not be in violation of the provisions of this document. Subject to approval of the Committee, such buildings may be remodeled according to the standards of the restrictions in effect

when the buildings were originally built. If any such buildings are damaged by fire, storm or other catastrophic event, then such buildings may be repaired and rebuilt to their original condition according to the restrictions in effect when the buildings were originally built. If, upon any remodeling or rebuilding following a catastrophic damage, the Committee determines that such repair or remodeling should involve a substantially new or different exterior design, then such buildings must meet the requirements of this document.

~~APPROVED AND ADOPTED~~ this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
~~CAPE CONROE PROPERTY OWNERS ASSOCIATIONS, INC.~~

\_\_\_\_\_  
~~President~~

~~THE STATE OF TEXAS~~ §  
\_\_\_\_\_  
§

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\_\_\_\_\_  
~~Notary Public - State of Texas~~

Certificate of Required Approval

Attached to this instrument and specifically made a part hereof is a Certificate, signed by the President and Secretary of the Association, certifying that the Owners having the requisite percentage of the total votes allocated to the property owners in the Association have voted in favor of and approved this amendment.

IN WITNESS WHEREOF, the Association has executed ~~Amended, Extended and Merged Restrictive Covenants~~ this Declaration of Restrictions for Cape Conroe, Section I and Cape Conroe, Section II on this the \_\_\_\_ day of \_\_\_\_\_, 20178.

~~CAPE CONROE PROPERTY OWNERS ASSOCIATIONS, INC.~~

~~CAPE CONROE PROPERTY OWNERS ASSOCIATIONS, INC.~~

President -

**ATTEST:**

~~Secretary -~~ ATTEST:

~~Secretary -~~



Conroe, Texas 77301