

CORPORATE CERTIFICATE
CAPE CONROE PROPERTY OWNERS ASSOCIATION, INC.

The undersigned certifies that he is the Attorney for Cape Conroe Property Owners Association, Inc. (the "Association"). The Association is the property owners' association for Cape Conroe Section I and Cape Conroe Section II, subdivisions in Montgomery County, Texas, according to the maps or plats thereof recorded in the Map Records of Montgomery County, Texas.

The Association is a Texas nonprofit corporation, and attached to this certificate is a true and correct copy of the Association's **ARCHITECTURAL CONTROL GUIDELINES AND REGULATIONS & EXHIBIT "A" APPLICATION FOR NEW HOME CONSTRUCTION, EXHIBIT "B" APPLICATION FOR CONSTRUCTION OF NEW ADDITION TO EXISTING HOME, APPLICATION FOR HOME MODIFICATION / IMPROVEMENTS.**

Signed this 8th day of November, 2024.

**CAPE CONROE PROPERTY OWNERS
ASSOCIATION, INC.**



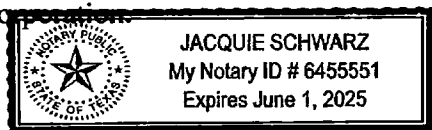
BRYAN P. FOWLER, Attorney

STATE OF TEXAS

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COUNTY OF MONTGOMERY

SWORN TO AND SUBSCRIBED BEFORE ME on the 8th day of November, 2024, by **BRYAN P. FOWLER**, Attorney for **CAPE CONROE PROPERTY OWNERS ASSOCIATION, INC.**, a Texas nonprofit corporation.



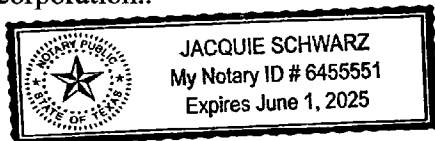

Notary Public -State of Texas

THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

This instrument was acknowledged before me on the 8th day of November, 2024, by **BRYAN P. FOWLER**, Attorney for **CAPE CONROE PROPERTY OWNERS ASSOCIATION, INC.**, a Texas nonprofit corporation..




Notary Public -State of Texas

AFTER RECORDING RETURN TO:

BRYAN P. FOWLER
The Fowler Law Firm
505 West Davis
Conroe, Texas 77301

**ARCHITECTURAL CONTROL GUIDELINES AND REGULATIONS
OF
CAPE CONROE PROPERTY OWNERS ASSOCIATION, INC.
(Amended August 2024)**

WHEREAS, the property affected by these Architectural Control Guidelines and Regulations is subject to that certain Amended, Extended and Merged Restrictive Covenants for Cape Conroe, Section I and Section II, recorded under Clerk's File No. 2002-041158 in the Official Public Records of Real Property of Montgomery County, Texas (the "Declaration"); and

WHEREAS, pursuant to the authority vested in Cape Conroe Property Owners Association, Inc (the "Association") in the Declaration and as required by the TEXAS PROPERTY CODE, the Board of Directors of the Association (the "Board") and the Association's Architectural Control Committee (the "ACC") has determined that, in order to provide clear and definitive guidance for maintaining the aesthetics and architectural harmony of the community, it is appropriate to adopt guidelines toward that end. Therefore, the Board and the ACC hereby promulgates the following Architectural Control Guidelines and Regulations.

NOW, THEREFORE, BE IT RESOLVED that the following conditions and requirements are hereby established for Association Architectural Control Guidelines and Regulations:

GUIDELINES AND REGULATIONS

The following are guidelines adopted by the Association to specify the standards, requirements and thought process used in evaluating various exterior improvements. These guidelines may be amended from time-to-time as circumstances, conditions or opinions of the Board and ACC dictate. The ACC has the right to deny approval for a similar improvement based on the proximity of a property to a main boulevard or the visual relativity of the site to the overall development.

It should be noted that the ACC approval is required prior to the installation or construction of the improvement or change. If an improvement is made without ACC approval, the Board of Directors and/or the ACC has the legal right to enforce its removal.

Appeal on Denial

Denial Notice Requirements. Denials of an application by an owner for the construction of improvements in the subdivision may be appealed to the Board (not a committee). A written notice of the denial must be provided to the owner by certified mail, hand delivery or electronic delivery. The notice must describe the basis for the denial in reasonable detail and include changes, if any to the application or improvements required as a condition to approval. The notice must also inform the owner that the owner may request a hearing on or before the 30th day after the date the denial notice was mailed to the owner.

Denial Hearings. If an owner requests a hearing to appeal the denial, the Board (not a committee) shall hold a hearing no later than the 30th day after receipt of the owner's request for hearing, and shall notify the owner of the date, time and place of the hearing not later than the 10th day before the

hearing. Only one hearing is required. Each side must be provided an opportunity to discuss and potentially resolve the denial. The Board or the owner may request a postponement of not more than 10 days, and otherwise only by agreement. Either party may make an audio recording of the hearing. The Board may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority as consistent with the declaration.

In addition to the guidelines set out below, additional guidelines are set out in the applications attached hereto. Owners shall complete the appropriate application depending on the improvements to be constructed. The three ACC applications include: Application for Construction of New Home, attached hereto as Exhibit "A," Application for Construction of an Addition to Existing Home, attached hereto as Exhibit "B," and Application for Home and Property Modification/Improvements, attached hereto as Exhibit "C."

The guidelines set out in the referenced ACC applications, and the following guidelines shall be applicable to all properties under the jurisdiction of the Association. These guidelines shall also encumber any future property which may be brought within the jurisdiction of the Association. These guidelines supersede and take the place of any previous architectural control guidelines for the Association.

A. DISPLAY OF FLAGS:

1. These Guidelines apply to the display of ("Permitted Flags"):
 - a. the flag of the United States; and
 - b. the flag of the State of Texas;
 - c. the official flag of any branch of the United States armed forces; and
 - d. flags with religious themes.
2. These Guidelines do not apply to any flags other than the Permitted Flags listed in Section 1 above including, but not limited to:
 - a. flags for schools, sports teams, businesses or foreign countries; or
 - b. flags with marketing, seasonal, historical, commemorative, nautical, or political themes; or
 - c. historical versions of flags permitted in section 1 above.
3. Permitted Flags may be displayed subject to these guidelines. Advance written approval of the ACC is required for any free-standing flagpole and any additional illumination associated with the display of Permitted Flags
4. Permitted Flags must be displayed in a respectful manner in accordance with the current relevant federal, state or military code.

5. Permitted Flags must be displayed from a pole attached to a structure or to a free-standing pole. Permitted Flags may not be draped over or directly attached to structures. For example, a Permitted Flag may not be laid across a fence or stapled to a garage door.
6. Permitted Flags shall be no larger than three foot (3') by five foot (5') in size, unless expressed permission is granted for commercial lots.
7. Only one Permitted Flag may be displayed on a flagpole attached to a structure. Up to two Permitted Flags may be displayed on an approved free-standing flagpole that is at least fourteen feet (14') tall.
8. Flagpoles must be constructed of permanent, long-lasting materials with an appropriate finish that is harmonious with the dwelling.
9. An owner may install a flagpole by attaching it to a structure, so long as the structure is owned by the owner and not maintained by the Association.
10. A flagpole attached to a structure may be up to six feet (6') long and must be securely attached with a bracket with an angle of 30 to 45 degrees down from vertical. The flagpole must be attached in such a manner as to not damage the structure. One attached flagpole is allowed on any portion of a structure facing a street and one attached flagpole is allowed on the rear or backyard portion of a structure. Brackets which accommodate multiple flagpoles are not allowed.
11. Unless expressed permission is granted for commercial lots, an owner may install one flagpole, not more than 20 feet in height, in the front yard of the property, if the location of the flag pole does not violate any applicable zoning ordinances, easements and setbacks of record.
12. Free-standing flagpoles may be up to twenty feet (20') tall, including any ornamental caps. Free-standing flagpoles must be permanently installed in the ground according to manufacturer's instructions. One free-standing flagpole is allowed in the portion of the owner's property between the main residential dwelling and any street and one free-standing flagpole is allowed in the rear or backyard portion of a property.
13. Free-standing flagpoles may not be installed in any location described below:
 - a. in any location other than the Owner's property; or
 - b. within a ground utility easement or encroaching into an aerial easement; or
 - c. beyond the side or rear setback lines (for example, on a lot with a 10' side setback line, a flagpole may not be installed closer than 10' from the side property line); or
 - d. beyond half the distance of the front setback line (for example, on a lot with a 30' front setback line, a flagpole may not be installed closer than 15' from the front property line); or

- c. closer to a dwelling on an adjacent lot than the height of the flagpole (for example, a 20' flagpole cannot be installed closer than 20' from an adjacent house).
- 14. Lighting may be installed to illuminate Permitted Flags if they will be displayed at night and if existing ambient lighting does not provide proper illumination. Flag lighting must:
 - a. be ground mounted in the vicinity of the flag; and
 - b. utilize a fixture that screens the bulb and directs light in the intended direction with minimal spillover; and
 - c. point towards the flag and face the main structure on the property or to the center of the property if there is no structure; and
 - d. provide illumination not to exceed the equivalent of a 60 watt incandescent bulb.
- 15. Flagpoles must not generate unreasonable noise levels which would disturb the quiet enjoyment of other residents. Each flagpole owner should take steps to reduce noise levels by using vinyl or plastic snap hooks, installing snap hook covers or securing a loose halyard (rope) around the flagpole with a flagpole clasp.
- 16. Flagpoles are allowed solely for the purpose of displaying Permitted Flags. If a flagpole is no longer used on a daily basis, it must be removed.
- 17. All flags and flagpoles must be maintained in good condition. Deteriorated flags must be removed and promptly replaced. Deteriorated or structurally unsafe flagpoles must be promptly repaired, replaced or removed.
- 18. Flagpoles shall comply with the other provisions of the Association flagpole policy, including the requirement that the owner apply for and obtain the written permission of the Association architectural committee before installing any flagpole.

B. DRIVEWAYS:

- 1. All new homes shall have driveways with a minimum #4 rebar (1/2") on 16" centers and 4" in depth. When replacing existing driveways, the same rules apply.

C. DROUGHT-RESISTANT LANDSCAPING AND WATER-CONSERVING TURF:

- 1. The following items are deemed aesthetically incompatible with the landscaping in the Subdivision and will not be approved:
 - a. Astro-turf and any other artificial turf (all turf must be natural and living);
 - b. Artificial plants, trees, shrubs, bushes and other artificial landscaping (all landscaping must be natural and alive);

- c. areas of rock, gravel, stone, or similar ground cover that comprise a significant portion of the front yard that is visible from public view, as determined in the sole discretion of the Association;
 - d. Cacti and similar plants that constitute the primary landscaping feature on the lot; and
 - e. Species of plant or turf that are dangerous, toxic or invasive to humans, animals or indigenous plant life.
- 2. The Association shall have the sole discretion as to what constitutes the meaning of "drought-resistant", "water-conserving", "artificial" and all other terms used in this policy that are not otherwise defined by applicable law or the Association's dedicatory instruments.
 - 3. No modification or installation of landscaping governed by this policy shall be made until the owner has first applied for and obtained the written approval of the Association.
 - 4. The Board of Directors may not unreasonably withhold approval of items regulated by this policy.

D. RAINWATER RECOVERY SYSTEMS:

- 1. Rainwater Recovery Systems may be installed with advance written approval of the ACC subject to these guidelines.
- 2. All such Systems must be installed on land owned by the property owner. No portion of the Systems may encroach on adjacent properties or common areas.
- 3. Other than gutters and downspouts conventionally attached to a dwelling or appurtenant structure, all components of the Systems, such as tanks, barrels, filters, pumps, motors, pressure tanks, pipes and hoses, must be substantially screened from public view from any street or common area. Screening may be accomplished by:
 - a. placement behind a solid fence, a structure or vegetation; or
 - b. by burying the tanks or barrels; or
 - c. by placing equipment in an outbuilding otherwise approved by the ACC.
- 4. A rain barrel may be placed in a location visible from public view from any street or common area only if the configuration of the guttering system on the structure precludes screening as described above with the following restrictions:
 - a. the barrel must not exceed 55 gallons; and

- b. the barrel must be installed in close proximity to the structure on a level base with the guttering downspout leading directly to the barrel inlet at a substantially vertical angle; and
 - c. the barrel must be fully painted in a single color to blend with the adjacent home or vegetation; and
 - d. any hose attached to the barrel discharge must be neatly coiled and stored behind or beside the rain barrel in the least visible position when not in use.
- 5. Overflow lines from the Systems must not be directed onto or adversely affect adjacent properties or common areas.
- 6. Inlets, ports, vents and other openings must be sealed or protected with mesh to prevent children, animals and debris from entering the barrels, tanks or other storage devices. Open top storage containers are not allowed, however, where space allows and where appropriate, ACC approved ponds may be used for water storage.
- 7. Harvested water must be used and not allowed to become stagnant or a threat to health.
- 8. All Systems must be maintained in good repair. Unused Systems should be drained and disconnected from the gutters. Any unused Systems in public view must be removed from public view from any street or common area.

E. DISPLAY OF RELIGIOUS ITEMS:

- 1. A property owner or resident may display religious items on their property or residence related to any faith that is motivated by the resident's sincere religious belief or tradition
- 2. To the extent allowed by the Texas state constitution and the United States constitution, any such displayed or affixed religious items may not:
 - a. threaten public health or safety, or
 - b. violate any law other than a law prohibiting the display of religious speech;
 - c. contain language, graphics or any display that is patently offensive to a passerby for reasons other than religious content;
 - d. be installed on common areas or common elements;
 - e. violate any applicable building line, right-of-way, setback or easement; or
 - f. be attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.

3. Approval from the ACC is not required for displaying religious items in compliance with these guidelines.
4. As provided by Section 202.018 of the TEXAS PROPERTY CODE, the Association may remove any items displayed in violation of these guidelines.

F. ROOFING MATERIALS:

1. All roofing materials shall be submitted to the ACC for approval. All buildings shall be roofed with composition shingles, tile, or metal roofing unless otherwise approved in writing by the ACC. Wood shingles are specifically prohibited for safety reasons.
2. Composition shingles must weigh at least 230 pounds per square and have a stated warranty of at least 25 years. Shingles must have a laminated design. Three-tab shingles are specifically prohibited except for use as a starter and cap rows. Three-tab shingles are permissible on older homes where roofs are not strong enough to support architectural shingles. Roof shingles must be black, dark or medium brown, or dark or medium gray tones. Light brown, light gray, blue, green, red and white colors are not allowed. When replacing shingles on *older* homes, the same colors apply.
3. Metal roofing shall be permitted within the subdivision with ACC approval. Metal roofing permitted includes slanting seam roofing, with hidden fasteners, flat roofing and panel roofing. Permitted colors for any metal roofing shall be a earth tone colors and subject to ACC approval.
4. Roof overlays are not allowed. Prior to roofing, all existing materials must be removed down to clean decking. Any damaged or deteriorated decking must be replaced.
5. Ridge vent are encouraged, to improve ventilation, reduce attic temperature and reduce cooling costs, but are not required.
6. All roof protrusions, such as vents, roof jacks, must be painted to match the shingles.
7. Subject to Section 8 below and with advance written approval from the ACC, an owner may install shingles ("Alternative Shingles") which are designed primarily to:
 - a. be wind and hail resistant; or
 - b. provide heating or cooling efficiencies greater than traditional composition shingles; or
 - c. provide solar energy capture capabilities.
8. Once installed, any such Alternative Shingles must:
 - a. resemble the shingles used or authorized to be used on other structures within the Association; and

- b. be more durable than and of equal or superior quality to the shingles used or authorized to be used on other structures within the Association; and
- c. match the aesthetics of properties surrounding the owner's property.

G. SOLAR ENERGY DEVICES:

1. These guidelines apply to solar energy devices ("Devices") as defined in Section 171.107(a) of the Texas Tax Code. A solar energy device means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.
2. Such Devices may only be installed with advance written approval of the ACC subject to these guidelines.
3. Any such Device must be installed on land or structures owned by the property owner. No portion of the Devices may encroach on adjacent properties or common areas.
4. Such Devices may only be installed in the following locations:
 - a. on the roof of the main residential dwelling, or
 - b. on the roof of any other approved structure; or
 - c. within a fenced yard or patio.
5. For Devices mounted on a roof, the Device must:
 - a. have no portion of the Device higher than the roof section to which it is attached; and
 - b. have no portion of the Device extend beyond the perimeter boundary of the roof section to which it is attached; and
 - c. conform to the slope of the roof; and
 - d. be aligned so the top edge of the Device is parallel to the roof ridge line for the roof section to which it is attached; and
 - e. have a frame, brackets and visible piping or wiring that is a color to match the roof shingles or a silver, bronze or black tone commonly available in the marketplace; and
 - f. be located in a position on the roof which is least visible from any street or common area, so long as such location does not reduce estimated annual energy production more than 10% over alternative roof locations (as determined by a publicly available modeling tool provided by the National Renewable Energy Laboratory www.nrel.gov or equivalent entity).

6. For Devices located in a fenced yard or patio, no portion of the Device may extend above the top of the fence. If the fence is not a solid fence which blocks view of the Device, the Association may require the Device be placed in a location behind a structure or otherwise require visual screening. The Association may consider installation of Devices on properties without a fenced yard if there is adequate screening from public view from any street or common area.
7. All Devices must be installed in compliance with manufacturer's instruction and in a manner which does not void material warranties. Licensed craftsmen must be used where required by law. Permits must be obtained where required by law
8. Installed Devices may not:
 - a. threaten public health or safety; or
 - b. violate any law; or
 - c. substantially interfere with the use and enjoyment of land by causing unreasonable discomfort or annoyance to any adjoining property owner.
9. All Devices must be maintained in good repair. Unused or inoperable Devices must be removed.

H. STANDBY ELECTRIC GENERATORS:

1. The owner shall first apply to and receive written approval from the Association prior to installation of any Standby Electric Generators ("SEG") permitted by TEXAS PROPERTY CODE, Section 202.019 that will be located outside of the main residential structure on the Property, in the same manner as all other submissions for approval or improvements to property.
2. The SEG must be installed and maintained in compliance with manufacture's specifications and applicable governmental health, safety, electrical and building codes.
3. All electrical, plumbing, and fuel line connections for the SEG shall be installed only by licensed contractors and all electrical connections must installed in accordance with applicable governmental health, safety, electrical and building codes.
4. All natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections for the SEG shall be installed in accordance with applicable governmental health, safety, electrical and building codes.
5. All liquid petroleum gas fuel line connections shall be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical and building codes.

6. All nonintegral standby electric generator fuel tanks for the SEG shall be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.
7. The SEG, its electrical and fuel lines shall all be maintained in good condition.
8. If a component of an SEG, including electrical or fuel lines, is deteriorated or unsafe then that component shall be repaired, replaced or removed as appropriate.
9. The SEG shall be screened in accordance with plans submitted to and approved by the Association, if it is:
 - a. visible from the street faced by the dwelling,
 - b. located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the property owners' association, or
 - c. located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the property owners association.
10. The SEG shall be periodically tested in accordance with the manufacturer recommendations.
11. The SEG shall not be used to generate all or substantially all of the electrical power to the residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence.
12. The SEG shall be located in a location submitted to and approved by the Association.
13. The SEG shall not be located on property owned or maintained by the property owners association or owned in common by the property owners association.
14. The location required by the Association for a SEG may not increase the cost of installing the SEG by more than 10% or increase the cost of installing and connecting the electrical and fuel lines for the SEG by more than 20%.

I. SECURITY MEASURES POLICY:

1. Before any security measure contemplated by Section 202.023(a) of the Texas Property Code ("Code") is constructed or otherwise erected on a Lot, an ACC application must be submitted to the Association and approved in writing in accordance with the Declaration. The following information must be included with the application:

- a. Type of security measure;
- b. Location of proposed security measure;
- c. General purpose of proposed security measure; and
- d. Proposed construction plans and/or site plan.

2. Type of Fencing. The Code authorizes the Association to regulate the type of security measure fencing that an Owner may install on a Lot.

- a. Security measure fencing generally
 - i. Security measure fencing cannot contain decorative elements and embellishments (whether part of the fence construction or are add-on decorative elements/embellishments). This prohibition includes, but is not limited to, prohibiting finials (of any shape or design), fleur de lis, points, spears (of any shape or design), and gate toppers of any type.
 - ii. Unless otherwise provided by the Association's dedicatory instruments, chain link, brick, concrete, barbed wire, vinyl, and stone security measure fencing is expressly prohibited and will not be approved by the ACC.
 - iii. No vines or vegetation shall be allowed to grow on security measure fencing.
- b. Security measure fencing forward of the residential structure on a Lot as depicted on the applicable Lot survey:
 - i. Must be metal fencing (either steel, wrought iron, or aluminum) measuring no more than four feet (4') in height. The ACC shall have the discretion to approve any other type of metal security measure fencing, however, the follow types of metal fencing are prohibited and will not be approved: (1) stamped metal fencing (including gates); (2) metal panel fencing; and (3) solid metal fencing. It is the intent of this Policy that all security measure fencing forward of the twenty foot (20') front building line on a Lot have the appearance of what is commonly called "wrought iron fencing";
 - ii. Must consist of straight horizontal rails and straight vertical pickets and/or posts;
 - iii. Must be black or any color approved by the ACC (including gates);
 - iv. Security measure fencing pickets shall be 3/4", 4" on center with 1 - 1/4" top and bottom rails. All framing must be on the inside (i.e., the residence side) of the security measure fencing;
 - v. Any driveway or pedestrian gates on security measure fencing must be of the same material as the fencing and swing inward and related fence motors/equipment must be kept screened from view with evergreen shrubs or in such other manner approved in writing by the ACC,

vi. When security measure fencing meets a wood fence, the security measure fencing may not be attached to the wood fence. The security measure fencing shall be terminated with a three-inch (3") metal post (either steel, wrought iron, or aluminum) adjacent to the wood post/wood fencing; and

vii. Chain link, brick, concrete, barbed wire, vinyl, wood and stone security measure fencing is expressly prohibited and will not be approved by the ACC.

viii. On corner lots, no security measure fencing shall be placed in the Visibility Triangle. The Visibility Triangle is the triangular area adjacent to the intersection of any street established by measuring a distance of 15 feet from the point of intersection of two streets along the right-of-way of each of the intersecting streets and connecting the ends of each measured distance (See illustration below).

- c. All security measure fencing must be installed per the manufacturer's specifications and all electric gates must be installed by a licensed electrician in accordance with all applicable codes and applicable governmental regulations.
- d. Placement of fencing and/or security measures of any type must comply with Texas, City of Montgomery and/or Montgomery County Regulations and Ordinances, if any.
- e. The ACC shall have the discretion to determine any additional types of approvable or prohibited security measure fencing.
- f. If the proposed security measure fencing is located on one or more shared Lot lines with adjacent Lot(s) ("Affected Lots"), all Owners of record of the Affected Lots must sign the ACC application evidencing their consent to the security measure fencing before the requesting Owner ("Requesting Owner") submits the ACC application to the ACC. In the event that the Affected Lot Owner(s) refuse to sign the ACC application as required by this section, the Affected Lot Owner(s) and Requesting Owner hereby acknowledge and agree that the Association shall have no obligation to participate in the resolution of any resulting dispute in accordance with this Policy.

3. Burglar Bars and Security Screens. All burglar bars, security screens, and front door entryway enclosure shall be black or any color approved by the ACC. Notwithstanding the foregoing, the ACC shall have the discretion to approve another color for burglar bars, security screens and front door entry enclosure if, in the sole and absolute discretion of the ACC (subject to an appeal to the Board of Directors in the event of an ACC denial), the proposed color of the burglar bars, security screens, and front door entryway enclosures complements the exterior color of the dwelling. All burglar bars and front door entry enclosures must be comprised of straight horizontal cross-rails and straight vertical pickets. Decorative elements and embellishments (whether part of the original construction of the burglar bar or security screen or are add-on decorative elements/embellishments) of any type are prohibited on burglar bars, security screens, and front door entryway enclosures.

4. Location. A security measure may be installed only on an Owner's Lot, and may not be located on, nor encroach on, another Lot, street right-of-way, Association Common Area, or any other property owned or maintained by the Association. No fence shall be installed in any manner that would prevent someone from accessing property that they have a right to use/access.
5. Disputes; Disclaimer; Indemnity. Security measures, including but not limited to, security cameras and security lights shall not be permitted to be installed in a manner that the security measure is aimed/directed at an adjacent property which would result in an invasion of privacy, or cause a nuisance to a neighboring Owner or resident. In the event of a dispute between Owners or residents regarding security measure fencing, or a dispute between Owners or residents regarding the aim or direction of a security camera or security light, the Association shall have no obligation to participate in the resolution of the dispute. The dispute shall be resolved solely by and between the Owners or residents.

EACH OWNER AND OCCUPANT OF A LOT WITHIN THE PROPERTY ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, INCLUDING ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, EMPLOYEES AND THE ACC, ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND/OR LOT THAT HAS A SECURITY MEASURE THAT HAS BEEN OR WILL BE INSTALLED PURSUANT TO THIS POLICY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF DWELLINGS AND IMPROVEMENTS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, INCLUDING ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, EMPLOYEES AND THE ACC, HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY MEASURE THAT MAY BE APPROVED BY THE ACC PURSUANT TO THIS POLICY.

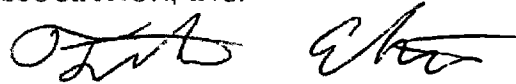
These guidelines are effective upon recordation in the Public Records of Montgomery County, Texas, and supersede any guidelines which may have previously been in effect. Except as affected by the TEXAS PROPERTY CODE and/or by these guidelines, all other provisions contained in the Declarations or any other dedicatory instruments of the Association shall remain in full force and effect.

This is to certify that the foregoing Architectural Control Guidelines and Regulations was adopted by the Board of Directors, effective as of the day of August, 2024, until such date as it may be modified, rescinded or revoked.

The Board of Directors hereby approves and authorizes the above Policy.

Signed this 14 day of August, 2024.

CAPE CONROE PROPERTY OWNERS
ASSOCIATION, INC.



President - Fred Ebois

ARCHITECTURAL CONTROL COMMITTEE
FOR CAPE CONROE PROPERTY OWNERS
ASSOCIATION, INC.

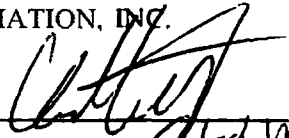
By: 
Name: Chad W. Stultz
Title: Acc Chairperson

EXHIBIT "A"

Application for Construction of New Home

**ARCHITECTURAL CONTROL GUIDELINES AND REGULATIONS OF
Cape Conroc Property Owners Association, Inc.**
(Amended August 2024)

**Architectural Control Committee
of
Cape Conroe Property Owners Association, Inc**

Name _____

Address _____

Section _____ Block _____ Lot _____

Application for Construction of New Home

Application Number: _____

Owner(s): _____

Builder(s): _____

Contractor(s): _____

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PART ONE

IMPORTANT NOTICE

Read this notice carefully before completing and submitting to the ACC for approval.

This entire document is to be considered as the "Application- for the purposes of applying for a building permit from the Architectural Control Committee (the "ACC-) for any construction within Cape Conroe. If approved by the ACC, this Application will automatically become a 1:Ap_s glin **contractual obligation** for you to follow all the **terms**, rules and regulations as set forth in this Application and in *Amended, Extended and Merged Restrictive Covenants for Cape Conroe, Section I and II* (the "Deed Restrictions"). Your construction must be as you describe below in this Application, with the material samples you submit with this Application, and with the plans you submit with this Application. The ACC will rely on your statements within this Application as being accurate. Any *false*, incorrect, or misleading statement will void your Application and the ACC's approval of it, whereupon all construction must stop immediately at the time of discovery and will result in the forfeiture of your deposit. If you fail to complete construction within the time specified within this Application and/or the Deed Restrictions, or if you fail to follow your plans as approved by the ACC, you may be required, at the sole discretion of the CCPOA, to dismantle and remove all new construction, addition and/or alteration, and restore the lot to its original condition at your own expense. No Application will be considered to be complete unless all necessary documentation, plans, material samples, and all other documents as required in this Application are attached to it at the time it is submitted to the ACC. If any components are missing, the ACC may return the Application in its entirety without looking at any part individually. All plans and specifications submitted with your Application must be complete and final. You cannot alter your plans without written approval from the ACC once your *plans* are approved By the ACC.

Scaled drawings shall be provided that are easily interpreted by one normally experienced in the building arts.

All approvals from the ACC must be in writing. If you have not received written approval of your Application, then your Application has not been approved, and you do not have permission to undertake the construction you have proposed in your Application.

PART TWO
Application Information for Construction and Steps for Obtaining a Building Permit

A. Required Information

1. Date Submitted: _____

2. Lot Owner(s): _____

3. Lot Address: _____

4. Type of Lot: [Residential] [] Townhouse [] Lakefront [] Commercial

5. Lot Owner(s) Contact Information:

Address: _____

Phones: Home _____ Work _____

Cell _____ Fax _____

E-Mail Address: _____

6. Builder(s) or Contractor(s) Contact Information:

(a) Builder Name: _____

Contact: (if other than Owner): _____

Address: _____

Phones: Work _____

Cell _____ Fax _____

E-Mail Address: _____

(b) Contractor Name _____

Contact: (if other than Owner): _____

Address: _____

Phones: Work _____

Cell _____ Fax _____

E-Mail Address: _____

7. Construction Start Date: _____

8. Construction Completion Date: _____

"Owner" defined: For the remainder of this Application, the term "Owner", as appropriate, includes the owner of the lot, any Builder, Contractor, any subcontractor performing construction on the lot and any agents of the owner of the lot, Builder, Contractor and any subcontractor performing construction on the lot.

Owner agrees to begin construction by the start date and to complete construction by the completion date immediately written above by Owner.

B. New Home Construction

For the construction of a new home, the owner must submit sufficient information to the ACC (1) for it to consider and approve or reject the application, (2) and for it to verify, once the construction is complete, that the construction was performed with strict adherence and conformity with this application.

. Who will perform the construction?

☐ Owner ☐ Builder ☐ Contractor ☐ Other:

Name(s): _____

2. Square Footage to be created: _____

Has owner verified that this square footage is in compliance with the minimums specified in the deed restrictions? ☐ Yes ☐ No

Initials. Owner(s) _____ Builder(s) _____ Contractor(s): _____ Application Page 5 of 22 (Rev. 08/2024)

3. Type of foundation: _____

4. Type of Exterior Construction. _____

5. Color, Texture, and Grade of **ALL** exterior materials (for example: roof, siding, paint, doors, shutters, gutters, windows, awnings, chimney, foundation, grout, etc...):

6. Number of Stories: [1] [] 1 1/2 [] 2

7. Type of Garage(s): [] Attached [] Detached [] Carport [] Lean To
Size: [] 2 car [] 3 car [] other

8. Are any of the following part of the proposed construction?

[] Fence [] Swimming Pool [] Outdoor Spa/Hot Tub

[] Other (Describe): _____

[illegible]

All documents provided to the ACC for approval become the sole property of the CCPOA and the ACC.

		<u>Included</u>	
a.	One copy of this application	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.	Site Plan	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c.	Floor Plan	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d.	Engineered Foundation Plan	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e.	Soil Reports	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f.	Front, Rear, and Side Elevations	<input type="checkbox"/> Yes	<input type="checkbox"/> No
g.	Proposed Elevations compared to Existing Homes	<input type="checkbox"/> Yes	<input type="checkbox"/> No
h.	Exterior Material Samples (Roof, Siding, Brick, etc.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
i.	Exterior Color Samples (Roof, Siding, Brick, etc.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Initials: Owner(s) _____ Builder(s). _____ Contractor(s): _____ Application Page 7 of 22 (Rev 08/2024)

- j. Drainage and Flood Abatement Plan ☐ Yes ☐ No
- k. Landscaping Plan ☐ Yes ☐ No
- l. Complete Detail Sheet ☐ Yes ☐ No
- m. Certification that building standards meet or exceed the IRC 2000 Building Codes as required by Texas state law ☐ Yes ☐ No

17. Carports: Carports or a lean to shall be permitted. The Owner shall comply with all building setback lines when constructing said carports and structures.

18. AC/H Units: Construction shall include installation of a central home AC/H units. Window mounted air conditioning units are expressly prohibited, and shall not be allowed to be installed, placed, or erected as an improvement on any home within the Subdivision.

PART THREE

Fees, Deposits, Fines, and Mandatory Cessation of Construction Following Notice

A. Fees: New Home Construction:\$ 465.00

All such fees are nonrefundable and become the property of CCPOA at the time of delivery to CCPOA by the Owner.

B. Deposit: Security Deposit for construction of new home:\$ 5,000.00

The entire amount of the balance of the security deposit that remains in the possession of CCPOA after one year from the Construction Start Date listed by the Owner in Part Two (A)(9) of this Application will be forfeited immediately by the Owner and will become immediately the property of CCPOA.

C. Fines: In order to secure the Owner's adherence with this application, the Owner agrees that the following fines may be assessed against the Owner at the sole discretion of the Association and in accordance with the schedule outlined immediately below. Any fines assessed by the Association shall be assessed immediately against the Owner's security deposit and paid immediately to the Association. If the amount of fine should exceed the amount of security deposit, the Owner Agrees that any excess amount shall become the personal obligation of the Owner.

If necessary, the ACC, at the time of the ACC's discretion, may give to the Owner the notice and fines as described below:

- a. **First Notice:** A verbal or written notice of the violation. The violation must be must be corrected within three working days from the date of delivery of the notice or a second notice will be given.
- b. **Second Notice:** A written notice of the violation. The Owner will be assessed an automatic **\$500.00** fine on the day the notice is delivered. An additional fine of **\$100.00** per day will also accrue for each day after the date the second notice is delivered that the violation remains uncorrected. If the violation remains uncorrected within three working days of delivery of the second notice, the ACC may give a third notice to the Owner at the time of the ACC's discretion.
- c. **Third Notice:** A written notice of the violation. The Owner will be assessed an automatic **\$1,000.00** fine. After the third notice is delivered to the Owner, all construction must end immediately except for any construction that has as its sole purpose the correction of the violation.

Construction must stop immediately after the owner's receipt of the third notice. Construction may only resume after the Owner receives written approval to do so from the ACC and after all fines have been paid and the security deposit is replenished and funded to its original amount.

It is the Owner's responsibility to notify the ACC when the Owner believes the violation has been corrected. The final determination shall be made by the ACC in its reasonable and sole discretion. Delivery of Notice(s): In addition to the methods of delivery of written notices described in Part 10 of this Application, written notices as described in this section are considered to be delivered when affixed with tape or other securing device to the front door of the home on the lot (or, if no front door exists, a prominent location on any permanent structure on the lot).

PART FOUR

Construction Rules and Materials for New Home/Townhouse Construction, Additions to Existing Structures, and Alteration of Existing Structures

The following rules of the ACC are provided to assist the owner with its completion of this application and to state some of the rules concerning construction or alteration within Cape Conroe.

1. **ACC Permit:** No construction of any kind can begin before the ACC has given the Owner, in writing, a signed and approved Application. All permits and addresses are to be prominently displayed at the building site.
2. **Culverts:** All culverts are to be installed by Montgomery County. The Owner is to contact Montgomery County Precinct at (936) 539-7815 to arrange for the County to shoot the grade and advise the Owner as to the size needed for that particular lot. The Owner will notify Mr. Widener when the culvert has been delivered to the site and the site has been staked as to the culvert location on the lot.

Under no circumstances is the Owner allowed to furnish and install any culverts in Cape Conroe. Additionally, no construction or dirt work can begin on the lot until the County has installed the culvert and notified the Owner. Construction cannot begin until after such notification.

3. County Building Permits: All required permits must be obtained from proper Montgomery County officials and a copy of those permits submitted to the ACC before any construction can begin. All permits and addresses are to be posted at the building site.

4. Lot Grading During Construction: The Owner is to grade the lot as necessary and as often as necessary to prevent flooding on any adjacent or down-stream property or homes. Should the grading prove inadequate, the Owner will promptly repair and/or compensate the property Owners, who have sustained damage.

5. Portable Toilets: The Owner is to provide a portable toilet for each construction site. Should there be two sites side-by-side or directly across the street from each other, only one portable toilet is required.

6. Trash Dumpster: No later than immediately after the foundation is poured, a suitable, commercial grade, metal trash dumpster must be furnished by the Owner at each construction site. Construction debris and trash must be picked up and put into the dumpster on a daily basis. This includes the roadway in front of and across from the site. The dumpster must be dumped in a timely manner to prevent over-filling.

7. Safety Fencing: Fencing must be installed along both sides and the rear of the construction site at a height of 4 feet with steel T-posts every 8 feet. The fence must be maintained in a neat and orderly manner throughout the construction process.

8. Building Materials:

- a. All materials must be new, except for brick.
- b. Any new foundation must match the existing foundation.
- c. Any addition must match the existing house in both materials and exterior finish as closely as possible.
- d. **Masonry and Siding:** It is a requirement of the ACC that at least forty percent (40%) of the exterior material be masonry, such as brick, stone, Stucco (no imitation Stucco allowed), or a combination thereof. No concrete blocks may be used in the exterior walls. As new building materials come on the market, the ACC will evaluate each product and make a determination as to its suitability for use in Cape Conroe. Hardi Plank, vertical board and batten has been considered and has been determined that it will be acceptable exterior building materials and can be used as "siding", but not as a masonry product. Hardi Plank Sheet Material or similar products with a Stucco finish will not be acceptable as "Masonry".

Initials: Owner(s) _____ Builder(s) _____ Contractor(s) _____

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Samples of all materials must be provided to the ACC for approval. This includes the type and color as called for in the building plans. No plans will be considered without samples. Materials for venting exterior for wood-burning fireplaces shall be brick or Hardi Plank.

- e. **Roofing:** All roofing materials shall be submitted to the ACC for approval. Metal roofing shall be permitted within the subdivision with ACC approval. Metal roofing permitted includes slanting seam roofing, with hidden fasteners, flat roofing and panel roofing. Permitted colors for any metal roofing shall be an earth tone colors and subject to ACC approval.

9. **Building Distances:** Building distances are referenced to roof overhangs, less guttering, which represent the largest overall house perimeter. These overhangs must not cross over recognized building and utility assessments lines where they can interfere with rights of way and views. These include the following:

- a. A twenty-five (25) foot front building line shown on plat.
- b. A ten (10) foot additional front building line adjacent to the other street for corner lots as shown on the plat.
- c. A four (4) foot building line from the interior property and side street lines. This allows appropriate distance between neighbors. (Note: This is not applicable to townhouses, which are installed against each other.)
- d. Any fencing of the rear yard must not exceed or cross the twenty-five (25) foot setback lines on the adjacent and rear lot for those lots wherein the owner owns a lot in rear of the owner's main lot containing his home.

10. **Utility Easements:** Normally, interior lots have five (5) and eight (8) foot utility easements which represent one-half (1/2) of shared easements. A townhouse has a five (5) foot utility easements at the front property line, which is within the twenty-five (25) front building line and therefore represents no problem.

11. **Permanent Fences:**

A. Location:

- 1. Install fences along property lines except where building lines are involved. This can include part of an easement with the understanding that utility firms can remove any fence while installing electrical line.
- 2. Fences CANNOT be installed across the front of houses and they should not extend to the front further than the front wall line of a house.

B. Construction Materials:

Metal, wood and vinyl are acceptable materials of construction for non-lake front lots. A wood fence must be treated or stained unless the fence is made of cedar.

2. Fences behind townhouses and water front houses must be wrought iron or chain link to avoid obscuring adjacent homeowners view of the water. Also, they can be run to the shoreline to contain pets.

C. Existing Fence Modification or Replacement: Whenever an existing fence is to be modified and/or replaced, its plans must be approved by the Architectural Control Committee before construction begins.

D. Height: Fence height must **not** exceed six feet six inches (6' 6") feet from the ground.

12. Good Neighbor Policy:

- a. **Hours of Construction:** The workday may begin at 7:00 AM or later and work will stop at sunset or 7:00 PM, whichever comes first. These limits will govern work on Saturdays, Sundays, and holidays. All deliveries of material and equipment are to be scheduled during these hours.
- b. **Sound and Noise Nuisances:** Radios or other audio equipment shall have volumes set so as not to offend neighbors near the construction site area. No obnoxious activity of any kind can emanate from the work site that adversely affects neighboring homeowners or the community in general.
- c. **Idling:** Owner's, Builder's, Contractor's and Sub-Contractor's vehicles are to be parked as much off the road as possible. Deliveries must be unloaded on arrival at the site. Every effort must be made so that they do not impede traffic flow.
- d. **Trespassing:** In no case may adjacent lots to the construction site be used as temporary storage of materials or vehicle parking, or for traffic routes for construction equipment and delivery vehicles to and from the construction site. The Owner may attempt to gain permission from the lot owners adjacent to the site for these purposes. Should the Owner be given permission, the ACC must be notified in writing that permission has been given.
- e. **Ruts and Debris:** The Owner will be responsible to repair any ruts caused by construction equipment and delivery vehicles on any lot. The Owner must ensure that the debris is properly covered in accordance with the law. The Owner is responsible to retrieve and dispose of debris that spills out of vehicles while leaving the subdivision.

- f. **Construction Equipment:** In no case can construction equipment be "stored" at the construction site. The equipment may be brought to the site the day before the intended use period and must be removed the day after it is no longer needed at the site.

Pets at Construction Site: The ACC prefers that animals not be brought to the site. However, there is no rule against it, but the animal must be on a leash at all times in accordance with Montgomery County Animal Control Ordinance. Furthermore, the animal must not create a "noise" nuisance.

- h. **Alcoholic Beverages:** No consumption of alcoholic beverages of any kind will be allowed at any construction site in Cape Conroe. This includes, but is not limited to, beer, wine coolers, liquor etc. If consumption of alcohol is observed, the ACC will contact appropriate members of law enforcement.

13. **Harmony and Conformity Rules:**

- a. **Flip Plans:** The ACC will not accept plans for consideration that are marked 'flip'. A complete set of actual building plans are required for consideration.
- b. **Tree Preservation:** No trees may be removed from a lot until a new home construction plan has been approved by the ACC. The Owner is to make every effort to save as many trees as construction allows. If there are no trees on the lot, at least one tree of no less than three (3) inches in diameter must be planted in the front yard as part of the final landscaping.
- c. **Landscaping Plans and Requirements:** A complete landscaping plan must be submitted along with the other documents required for consideration of the application. The plans must include a site plan that depicts the property lines, easements, setback lines, slab footprint, driveways, and drainage. Bedding areas and areas to be sodded must be clearly indicated on the plan. The plan should indicate the location, type, quantity, and size of proposed plants.
- i. All areas of the property that are not covered by construction or landscaped for flower/plant beds are to be covered with sod. This provision specifically requires each lot to be covered with sod up to the edge of all adjacent roads and property lines and including any ditch that borders an adjacent road.
- ii. Bedding areas shall be prepared with an appropriate mulching or soil enhancing material to enrich the existing soil. Bedding areas should be raised sufficiently to provide adequate drainage away from home foundations.
- iii. Appropriate plants shall be planted to visually screen air conditioning units, swimming pool equipment, and other utility installations that are visible from the front or side of the structure.

- iv. Corner lots must be landscaped with appropriate foliage and plant beds on each side of the corner lot that faces a street.
- d. **Front Elevation Repetition Policy:** One of Cape Conroe's special characteristics is the appearance of a "custom built community" and to this end, the ACC will impose a strict adherence to the following rules pertaining to front elevations:
 - i. Front elevation designs may be duplicated in the subdivision but only to the extent that they are not repeated in more than 5% of the total lots in the subdivision;
 - ii. Homes built as part of this 5% allowance will not be in a line-of-sight of each other;
 - iii. Duplicate homes will be further restricted by having no less than twelve consecutive lots between them;
 - iv. Duplicate homes MUST be of a different masonry, roof, and paint colors;
 - v. Any change to the architectural features that reduce the impact of duplicate use of the same elevation plan is encouraged and will encourage the ACC to approve the plans;

14. **Detached Buildings:**

- a. **Foundation or Supports:** Floor supports should be brick or concrete blocks as a minimum to prevent rotting, rusting and termite attack. These conditions can lead to an unsightly appearance. Better options are treated wood skids on bricks and treated platforms on treated posts set on concrete. The open space beneath the building should be covered with a lattice to keep varmints out. Lighter buildings should be anchored to supports to prevent wind damage. Acceptable anchors are concrete slab "3" bolts, bricks and concrete block, platform bolts, and earth anchors.
- b. **Building Materials:** Both metal and wood are acceptable. Outside surfaces must be painted or stained.

15. **Swimming Pools Fence** - A pool must be contained within a fence no lower than six feet six inches (6' 6") in height.

16. **Plumbers and Plumbing:** Any and all plumbing installation or alteration must be performed by a plumber with a master plumber's license and with an emblem evidencing a master plumber's license prominently displayed on his or her vehicle.

17. **Carports:** Carports or a lean to shall be permitted. The Owner shall comply with all building setback lines when constructing said carports and structures.

18. AC/H Units: Construction shall include installation of a home central AC/H units. Window mounted air conditioning units are expressly prohibited, and shall not be allowed to be installed, placed, or erected as an improvement on any home within the Subdivision.

PART FIVE

Foundation Construction and Flood Control

Each new Applicant for a home/townhouse must have a foundation plan prepared by a State of Texas registered professional engineer and must be stamped and signed by the plan's designer. The plan must be based on a soil sample(s) taken from the actual subject lot. This test must be by an approved agency using State-approved methods. A copy of the soil test must be submitted to the ACC along with the engineered foundation plan.

1. Foundation Construction:

- a. Foundation construction must be capable of accommodating all loads according to Section R301 and R401 of the International Residential Code for One- and Two- Family Dwellings (IRC 2000) and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations must be designed, installed, and tested in accordance with accepted engineering practice;
- b. The finished floor elevation must be one foot above the nearest downstream sanitary manhole cover. If for any reason the slab is built below the elevation of the nearest manhole cover, a backflow valve must be costaled;
- c. The finished floor elevation must be indicated on the slab survey to be reviewed by the ACC. If the elevation is not indicated on the slab survey, the ACC will not consider the Application;
- d. An engineer's independent affidavit of foundation construction in compliance with the approved plan will be required prior to continuance of any further construction;
- e. All garages on homes, even with elevated pier and beam foundations, must be a concrete foundation.

2. Waterfront Homes:

- a. **Elevation:** On waterfront homes, the finished floor elevation of the home shall not exceed an elevation higher than the 208 foot elevation level unless prior written approval is granted by the ACC
- b. **Facade Skirting/Fencing:** On water front homes, any raised elevation or pier and beam elevation will include facade skirting and/or fencing, and the facade skirting or fencing shall match the style and color of the home.

3. **Flood Control:** The owner should familiarize himself or herself concerning the natural flow of water over the land and that this natural flow not be impaired. However, it is incumbent on the Owner to provide for appropriate drainage and flood control improvements during construction and as part of the final landscaping plan.

a. **Drainage and Flood Abatement Plan:** This must be submitted at the time of the Application. The plan must be prepared as a separate plan with a full explanation of how the natural flow will be redirected and not cause flooding of the neighboring lots and downstream lots.

b. **Final Grade Improvements:** Gentle swales or improved slopes may be employed to direct any surface water to the drainage ditches.

c. **Subsurface Improvements:** French drains, perforated or non-perforated drainpipes, and berms may be *used* to redirect the natural flow.

d. **Plan Failure:** Should the Drainage and Flood Abatement Plan fail to protect the adjacent or down-stream lots from flooding, the Owner will revise the plan and immediately repair all damage or make restitution to the lot Owner sustaining any damage, by the failure of the plan.

e. **Temporary Drainage Requirements:** Temporary drainage during construction and final grade shall be considered to provide the maximum efficiency for site drainage to an approved collection point and further conveyance into the drainage system.

PART SIX

Inspection Policy and Proper Notification to the ACC

The State of Texas has legislated minimum building standards for all residential builds throughout Texas, initially referred to as IRC 2000. The ACC has adopted these standards as provided under this State law. The ACC will not inspect each structure for compliance with this law, but it will require a statement from the Owner that the minimum standards as required within IRC 2000 and as amended will be used throughout the construction of the building constructed in Cape Conroe. Should it be discovered that the Owner did not actually build to the IRC 2000 standards and as amended, at the discretion of the ACC, such Owner may be prohibited from undertaking any future construction at any location within Cape Conroe.

1. Notification Requirement:

- a. Pouring Cement for the Foundation:** The ACC must be notified by fax or email 48 hours prior to the pouring of the foundation. Documents should be sent by telefacsimile or email to Montgomery County Precinct at 936-582-6898. Additionally, the ACC must receive a copy of the final inspection report prepared by the certified engineer which states that the foundation was poured in compliance with the approved foundation plans. The Owner is hereby notified that the "wash out" of the cement trucks can occur only on the **building site**. If a "wash out" is performed in the subdivision, but not on the building site, an immediate fine of \$500.00 per incident will be imposed on the Owner, and the Owner will be required to clean up the washed out cement where the incident occurred.
- b. Culvert Installation:** The ACC is to be notified after the culvert has been installed by the County and that construction is about to begin. Remember, in no event may the Owner install the culvert. This must be done by Montgomery County.
- c. Unexpected Construction Problems or Delays:** The ACC is to be notified in writing should the Owner encounter problems or delays. The owner should detail the *nature* of the problems or delays and the Owners plans to overcome the problems or delays.
- d. Construction and Final Landscaping Completion:** When no further construction is required and the final grade and landscaping has been completed, the Owner must notify the ACC in writing and request the return of its Security Deposit.

PART SEVEN

Construction Completion, Final Grading and Landscaping, and Security Deposit Refund

- 1. Construction Completion:** The responsibility for meeting the 365-day requirement for Completion rests solely with the Owner. Should additional time be needed, the Owner may request additional time from the ACC. This request must be in writing with a full explanation as to the need for additional time. It is the sole discretion of the ACC whether to grant an extension or not;
- 2. Final Grading and Landscaping:** The Owner is to arrange an appointment with a member of the ACC to meet the Owner at the construction site to review all aspects of the approved Final Grading and Landscaping plans for compliance and acceptance by the ACC;
- 3. Security Deposit Refund:** The Owner may request the Security Deposit refund after the ACC has accepted the building as completed and ready for occupancy. Any outstanding fines will be deducted from the deposit and the balance refunded to the Owner. If there are outstanding fines, which have not been paid, and the balance of the security deposit will not cover these fines, the Owner must forward a check to the ACC in the amount of the outstanding fines. If the Owner does not satisfy the outstanding fines, the Owner will be prohibited from building on any lot located within Cape Conroe

Initials: Owner(s)

Builder(s): _____ Contractor(s): _____ Application Page 17 of 22 (Rev. 08/2024)

until these fines are paid. The entire amount of the balance of the security deposit that remains in the possession of CCPOA after one year from the Construction Start Date listed by the Owner in Part Three (B) of this Application will be forfeited immediately by the Owner and will become immediately the property of CCPOA.

PART EIGHT

Violation of Deed Restrictions and this Application

The Owner understands and agrees that the Owner will be personally liable to the Cape Conroe Property Owners Association for severe civil penalties and monetary damages if such Owner fails to complete construction by the Completion Date declared by the Owner in Part Two, (A)(8) of this Application, or undertakes construction or alterations at variance to the approved plans, or violates the Deed Restrictions in any manner during such construction or alterations.

If violation of the Deed Restrictions occurs after approval has been given, the Owner must correct the error within fifteen (15) calendar days after written notification by the ACC or its attorney. The Owner understands Texas law provides that residential restrictive covenants may be enforced in courts of law. The Owner is directed to consult the Owner's legal advisors as to the ultimate amount of damages and liabilities that may result for violations of the residential restrictive covenants.

PART NINE

Intent of ACC

It is the intent of the Architectural Control Committee (ACC) to administer the Cape Conroe Subdivision Deed Restrictions (CCSDR) and to abide by the rules and obligations outlined in those restrictions.

The primary goals of the rules and obligations are as follows:

1. To enforce the size requirements for a house/townhouse or building or other structure based on the lot size **and** any restrictions placed on those lots.
2. To maintain the "harmony and conformity" of the community throughout the Subdivision.
3. To make rules as authorized in the Deed Restrictions to provide minimum requirements for all Owners to ensure a reasonable level of quality building materials, structure design, and flood control and abatement.
4. To apply all the restrictions and rules in a fair and equitable matter to all Owners and to levy penalties on those Owners that, in the opinion of the ACC, are in violation of those restrictions and rules.

The ACC does not intend to impede the normal and orderly construction of any new houses or other construction in the Subdivision; however, it is the duty and the responsibility of the lot owners and their builders to respect the rights and the property of other homeowners as the new structure is being constructed. If the ACC finds noncompliance issues and the issues are not resolved in a timely matter, the ACC may impose fines against the lot owners, the Owner or both. The amount of the fine will be deducted from the deposit as discussed in Part Three above.

PART TEN

Additional Information Regarding This Binding Agreement

This application is created by the ACC to assist it with performing its function as defined under the Deed Restrictions. If any portion of this application is or is found to be in conflict with the Deed Restrictions, then the Deed Restrictions shall govern. Furthermore, no portion of this application or action by the ACC shall be construed by any Owner as a waiver of any one or all of the Deed Restrictions by CCPOA or the ACC.

The Parties agree that this Agreement has been made in Texas and that it shall be governed by and construed pursuant to the laws of the State of Texas and venue for any action under this agreement shall be exclusively in Montgomery County, Texas.

The Parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the Parties and that this Agreement supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

The Parties agree that any notice or writing required under this agreement or permitted by this Agreement or any law of the State of Texas shall be deemed to have been delivered by mail upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service and addressed, as appropriate, (a) to the *Owner* at the address *given* in Part Two of this agreement, (b) to the Builder and/or Contractor at the address given in Part Two of this agreement, or (c) to the ACC and/or CCPOA at Investment Management Company, do Steve Durham, 3500 West Davis Street, Suite 190, Conroe, TX 77304.

If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs of court in addition to any other relief to which that party may be entitled. This provision shall be construed as applicable to the entire Agreement.

If any court of competent jurisdiction adjudicates any part of this Agreement invalid, illegal, or unenforceable, that judgment shall not impair or nullify the remainder of this Agreement, and its effect shall be confined to the portion involved in the judgment

Neither CCPOA nor the ACC assumes any liability for any actions performed by any Owner, Builder, Contractor, or Sub-Contractor or any agent(s), and/or employee(s) of any Owner, Builder, Contractor or Sub-Contractor.

Initials: Owner(s) _____ Builder(s) _____ Contractor(s) _____ Application Page 19 of 22 (Rev. 08/2024)

PART ELEVEN

Signatures

By his or her signature below, each owner, builder, and contractor, if any, AGREES TO EACH OF THE FOLLOWING:

1. He or she has read and understands the Deed Restrictions pertaining to the Owner's real property in Cape Canaveral;
2. He or she has read and understands all parts of this application and agrees to abide by all the terms and requirements of this application;
3. He or she understands and is specifically aware that this entire Application includes many important requirements with severe consequences for non-compliance, and that most are not listed or re-listed in this "Part Eleven" of the application,
4. All activities and construction involving the property will conform to the Deed Restrictions and the rules as stated in this Application;
5. He or she is responsible to inform his or her contractors and/or subcontractors, if any, of the requirements of both the Deed Restrictions and this Application;
6. To follow the plans and specifications EXACTLY as submitted to the ACC and approved by the ACC;
7. The Owner is legally responsible for all actions taken by the Builder, General Contractor and all Sub-Contractors, if any, involved in the construction of the building on the Owner's lot, and
8. The Owner understands the approval by the ACC expires on the 365th day after such approval if construction has not yet begun. If the Owner wishes to undertake the same or new construction after that time, a new set of plans must be submitted to the ACC for approval to conform to the then current Deed Restrictions and requirements of the ACC.

Initials: Owner(s) _____ Builder(s): _____ Contractor(s): _____

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I HAVE CAREFULLY READ THIS AGREEMENT AND FULLY UNDERSTAND ITS CONTENTS AND BINDING EFFECT. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO HAVE THIS AGREEMENT REVIEWED BY AN ATTORNEY OF MY CHOOSING PRIOR TO THE TIME THAT I SIGNED IT. I UNDERSTAND THAT THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN ME AND CAPE CONROE PROPERTY OWNERS' ASSOCIATION, INC. THAT AFFECTS MY LEGAL RIGHTS. I REPRESENT THAT I AM SIGNING THIS AGREEMENT KNOWINGLY, VOLUNTARILY AND OF MY OWN FREE WILL.

OWNER:

Signature: _____

Print Name: _____

Date: _____

OWNER:

Signature: _____

Print Name: _____

Date: _____

BUILDER: _____

By: _____

Print Name: _____

Date: _____

CONTRACTOR: _____

By: _____

Print Name: _____

Date: _____

Initials: Owner(s) _____ Builder(s): _____ Contractor(s): _____

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PART TWELVE

Form For Use by Architectural Control Committee

APPROVED: _____ Date: _____ REJECTED: _____ Date: _____

Application Number: _____

Address: _____

Requirements **BEFORE** approval can be given:

NOTE: **IF REJECTED, A NEW APPLICATION MUST BE SUBMITTED AND APPROVED BEFORE WORK CAN BEGIN.**

Chairperson of the ACC	Approved Disapproved	Date
ACC Member	Approved Disapproved	Date
ACC Member	Approved Disapproved	Date
ACC Member	Approved J Disapproved	Date
ACC Member	Approved Disapproved	Date
ACC Member	Approved Disapproved	1 Date
ACC Member	Approved Disapproved	Date
ACC Member	Approved Disapproved	Date

Initials: Owner(s) _____ Builder(s): _____ Contractor(s): _____ Application Page 22 of 22 (Rev 08/2024)

EXHIBIT "B"

Application for Construction of New Addition to Existing Home

**ARCHITECTURAL CONTROL GUIDELINES AND REGULATIONS OF
Cape Conroe Property Owners Association, Inc.**
(Amended August 2024)

**Architectural Control Committee
of
Cape Conroe Property Owners Association, Inc.**

Name _____

Address _____

Section _____ Block _____ Lot _____

Application for Construction of New Addition to Existing Home

Application Number _____

Owner(s) _____

Builder(s): _____

Contractor(s): _____

Initials: Owner(s)

Builder(s):

Contractor(s). _____ Application Page 1 of 22 (Rev 08/2024)

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PART ONE

IMPORTANT NOTICE

Read this notice carefully before completing and submitting to the ACC for approval.

This entire document is to be considered as the "Application- for the purposes of applying for a building permit from the Architectural Control Committee (the "ACC-") for any construction within Cape Conroe. If approved by the ACC, this Application will automatically become a binding contractual obligation for you to follow all the terms, rules and regulations as set forth in this Application and in *Amended, Extended and Merged Restrictive Covenants for Cape Conroe, Section I and II* (the "Deed Restrictions"). Your construction must be as you describe below in this Application, with the material samples you submit with this Application, and with the plans you submit with this Application. The ACC will rely on your statements within this Application as being accurate. Any false, incorrect, or misleading statement will void your Application and the ACC's approval of it, whereupon all construction must stop immediately at the time of discovery and will result in the forfeiture of your deposit. If you fail to complete construction within the time specified within this Application and/or the Deed Restrictions, or if you fail to follow your plans as approved by the ACC, you may be required, at the sole discretion of the CCPOA, to dismantle and remove all new construction, addition and/or alteration, and restore the lot to its original condition at your own expense. No Application will be considered to be complete unless all necessary documentation, plans, material samples, and all other documents as required in this Application are attached to it at the time it is submitted to the ACC. If any components are missing; the ACC may return the Application in its entirety without looking at any part individually. All plans and specifications submitted with your Application must be complete and final. You cannot alter your plans without written approval from the ACC once your plans are approved By the ACC.

Scaled drawings shall be provided that are easily interpreted by one normally experienced in the building arts.

All approvals from the ACC must be in writing. If you have not received written approval of your Application, then your Application has not been approved, and you do not have permission to undertake the construction you have proposed in your Application.

PART TWO

Application Information for Construction and Steps for Obtaining a Building Permit

A. Required Information

1. Date Submitted: _____

2. Lot Owner(s): _____

3. Lot Address: _____

4. Type of Lot: ☐ Residential ☐ Townhouse ☐ Lakefront ☐ Commercial

5. Lot Owner(s) Contact Information:

Address: _____

Phones: Home _____ Work _____

Cell _____ Fax _____

E-Mail Address: _____

6. Builder(s) or Contractor(s) Contact Information:

(a) Builder Name: _____

Contact: (if other than Owner): _____

Address: _____

Phones: Work _____

Ce _____ Fax _____

E-Mail Address: _____

Initials Owner(s) _____
Builder(s) _____ Contractor(s): _____ Application Page 4 of 22 (Rev. 08/2024)

(b) Contractor Name: _____

Contact: (if other than Owner): _____

Address: _____

Phones: Work _____

Cel _____ Fax _____

E-Mail Address: _____

7. Construction Start Date: _____

8. Construction Completion Date: _____

"Owner" defined: For the remainder of this Application, the term "Owner", as appropriate, includes the owner of the lot, any Builder, Contractor, any subcontractor performing construction on the lot and any agents of the owner of the lot, Builder, Contractor and any subcontractor performing construction on the lot.

Owner agrees to begin construction by the start date and to complete construction by the completion date immediately written above by Owner.

B. New Addition to Existing Home Construction

For the construction of a new addition to an existing home, the owner must submit sufficient information to the ACC (1) for it to consider and approve or reject the application, (2) and for it to verify, once the construction is complete, that the construction was performed with strict adherence and conformity with this application.

1 . Who will perform the construction?

☐ Owner ☐ Builder ☐ Contractor ☐ Other:

Name(s): _____

2. Square Footage to be created: _____

Has owner verified that this square footage is in compliance with the minimums specified in the deed restrictions? ☐ Yes ☐ No

Initials: Owner(s) _____ Builder(s): _____ Contractor(s): _____ Application Page 5 of 22 (Rev 08/2024)

3. Type of foundation: _____

4. Type of Exterior Construction: _____

5. Color, Texture, and Grade of ALL exterior materials (for example: roof, siding, paint, doors, shutters, gutters, windows, awnings, chimney, foundation, grout, etc. .):

6. Number of Stories: ☐ 1 ☐ 1 1/2 ☐ 2

7. Type of Garage(s): ☐ Attached ☐ Detached ☐ Carport ☐ Lean To
Size: 2 car ☐ 3 car ☐ other

8. Are any of the following part of the proposed construction?

☐ Fence ☐ Swimming Pool ☐ Outdoor Spa/Hot Tub

☐ Other (Describe): _____

9. Any additional information that will help the ACC in its determination and the approval process (attach additional sheets if necessary):

19. Plans, Drawings, and Related Documents:

All documents provided to the ACC for approval become the sole property of the CCPOA and the ACC.

For the construction of a new home, **one (1) set** of material samples and **two (2) sets** of each of the following documents, except for item "a", must be submitted to the ACC for this application to be considered. If any materials or documents are missing, the Application will not be considered, and the owner will forfeit the application fee discussed further in Part Three (A) of this Application.

	<u>Included</u>	
a. One copy of this application	<input type="checkbox"/> Yes <input type="checkbox"/> No	
b. Site Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No	
c. Floor Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No	
d. Engineered Foundation Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No	
e. Soil Reports	<input type="checkbox"/> Yes <input type="checkbox"/> No	
f. Front, Rear, and Side Elevations	<input type="checkbox"/> Yes <input type="checkbox"/> No	

- g. Proposed Elevations compared to Existing Homes [] Yes
[] No
- h. Exterior Material Samples (Roof, Siding, Brick, etc.) [] Yes
[] No
- i. Exterior Color Samples (Roof, Siding, Brick, etc.) [] Yes
[] No
- j. Drainage and Flood Abatement Plan [] Yes
[] No
- k. Landscaping Plan [] Yes
[] No
- l. Complete Detail Sheet [] Yes [] No
- m. Certification that building standards meet or exceed the IRC 2000 Building Codes as required by Texas state law [] Yes [] No

PART THREE

Fees, Deposits, Fines, and Mandatory Cessation of Construction Following Notice

A.Fees: New Addition to Existing Home Construction: **\$ 465 00**

All such fees are nonrefundable and become the property of CCPOA at the time of delivery to CCPOA by the Owner.

B.Deposit: Security Deposit for New Addition to Existing Home Construction: **\$ 3,000.00**

The entire amount of the balance of the security deposit that remains in the possession of CCPOA after one year from the Construction Start Date listed by the Owner in Part Two (A)(9) of this Application will be forfeited immediately by the Owner and will become immediately the property of CCPOA.

C.Fines: In order to secure the Owner's adherence with this application, the Owner agrees that the following fines may be assessed against the Owner at the sole discretion of the Association and in accordance with the schedule outlined immediately below. Any fines assessed by the Association shall be assessed immediately against the Owner's security deposit and paid immediately to the Association. If the amount of fine should exceed the amount of security deposit, the Owner Agrees that any excess amount shall become the personal obligation of the Owner.

If necessary, the ACC, at the time of the ACC's discretion, may give to the Owner the notice and fines as described below:

- a. **First Notice:** A verbal or written notice of the violation. The violation must be must be

corrected within three working days from the date of delivery of the notice or a second notice will be given.

Initials. Owner(s) _____ Builder(s): _____ Contractor(s): ____ ____ Application Page 8 of 22 (Rev. 08/2024)

- b. **Second Notice:** A written notice of the violation. The Owner will be assessed an automatic **\$500.00** fine on the day the notice is delivered. An additional fine of \$100.00 per day will also accrue for each day after the date the second notice is delivered that the violation remains uncorrected. If the violation remains uncorrected within three working days of delivery of the second notice, the ACC may give a third notice to the Owner at the time of the ACC's discretion.
- c. **Third Notice:** A written notice of the violation. The Owner will be assessed an automatic **\$1,000.00** fine. After the third notice is delivered to the Owner, all construction must end immediately except for any construction that has as its sole purpose the correction of the violation.

Construction must stop immediately after the owner's receipt of the third notice. Construction may only resume after the Owner receives written approval to do so from the ACC and after all fines have been paid and the security deposit is replenished and funded to its original amount.

It is the Owner's responsibility to notify the ACC when the Owner believes the violation has been corrected. The final determination shall be made by the ACC in its reasonable and sole discretion. Delivery of Notice(s): In addition to the methods of delivery of written notices described in Part 10 of this Application, written notices as described in this section are considered to be delivered when affixed with tape or other securing device to the front door of the home on the lot (or, if no front door exists, a prominent location on any permanent structure on the lot).

PART FOUR

Construction Rules and Materials for New Home/Townhouse Construction, Additions to Existing Structures, and Alteration of Existing Structures

The following rules of the ACC are provided to assist the owner with its completion of this application and to state some of the rules concerning construction or alteration within Cape Conroe.

1. **ACC Permit:** No construction of any kind can begin before the ACC has given the Owner, in writing, a signed and approved Application. All permits and addresses are to be prominently displayed at the building site.

2. **Culverts:** All culverts are to be installed by Montgomery County. The Owner is to contact Montgomery County Precinct at (936) 539-7815 to arrange for the County to shoot the grade and advise the Owner as to the size needed for that particular lot. The Owner will notify Montgomery County Precinct when the culvert has been delivered to the site and the site has been staked as to the culvert location on the lot. Under no circumstances is the Owner allowed to furnish and install any culverts in Cape Conroe. Additionally, no construction or dirt work can begin on the lot until the County has installed the culvert and notified the Owner. Construction cannot begin until after such notification.

3. County Building Permits: All required permits must be obtained from proper Montgomery County officials and a copy of those permits submitted to the ACC before any construction can begin. All permits and addresses are to be posted at the building site.

4. Lot Grading During Construction: The Owner is to grade the lot as necessary and as often as necessary to prevent flooding on any adjacent or down-stream property or homes. Should the grading prove inadequate, the Owner will promptly repair and/or compensate the property Owners, who have sustained damage.

5. Portable Toilets: The Owner is to provide a portable toilet for each construction site. Should there be two sites side-by-side or directly across the street from each other, only one portable toilet is required.

6. Trash Dumpster: No later than immediately after the foundation is poured, a suitable, commercial grade, metal trash dumpster must be furnished by the Owner at each construction site. Construction debris and trash must be picked up and put into the dumpster on a daily basis. This includes the roadway in front of and across from the site. The dumpster must be dumped in a timely manner to prevent over-filling.

7. Safety Fencing: Fencing must be installed along both sides and the rear of the construction site at a height of 4 feet with steel T-posts every 8 feet. The fence must be maintained in a neat and orderly manner throughout the construction process.

8. Building Materials:

- a. All materials must be new, except for brick.
- b. Any new foundation must match the existing foundation.
- c. Any addition must match the existing house in both materials and exterior finish as closely as possible.
- d. **Masonry and Siding:** It is a requirement of the ACC that at least forty percent (40%) of the exterior material be masonry, such as brick, stone, Stucco (no imitation Stucco allowed), or a combination thereof. No concrete blocks may be used in the exterior walls. As new building materials come on the market, the ACC will evaluate each product and make a determination as to its suitability for use in Cape Conroe. Hardi Plank, vertical board and batten has been considered and has been determined that it will be acceptable exterior building materials and can be used as "siding", but not as a masonry product. Hardi Plank Sheet Material or similar products with a Stucco finish will not be acceptable as "Masonry". Samples of all materials must be provided to the ACC for approval. This includes the type and color as called for in the building plans. No plans will be considered without samples. Materials for venting exterior for wood-burning fireplaces shall be brick or Hardi Plank.

- e. **Roofing:** All roofing materials shall be submitted to the ACC for approval. Metal roofing shall be permitted within the subdivision with ACC approval. Metal roofing permitted includes slanting seam roofing, with hidden fasteners, flat roofing and panel roofing. Permitted colors for any metal roofing shall be a earth tone colors and subject to ACC approval.

9. **Building Distances:** Building distances are referenced to roof overhangs, less guttering, which represent the largest overall house perimeter. These overhangs must not cross over recognized building and utility assessments lines where they can interfere with rights of way and views. These include the following:

- a. A twenty-five (25) foot front building line shown on plat.
- b. A ten (10) foot additional front building line adjacent to the other street for corner lots as shown on the plat.
- c. A four (4) foot building line from the interior property and side street lines. This allows appropriate distance between neighbors. (Note: This is not applicable to townhouses, which are installed against each other.)
- d. Any fencing of the rear yard must not exceed or cross the twenty-five (25) foot setback lines on the adjacent and rear lot for those lots wherein the owner owns a lot in rear of the owner's main lot containing his home.

10. **Utility Easements:** Normally, interior lots have five (5) and eight (8) foot utility easements which represent one-half(1/2) of shared easements. A townhouse has a five (5) foot utility easements at the front property line, which is within the twenty-five (25) front building line and therefore represents no problem.

11. **Permanent Fences:**

A. Location:

1. Install fences along property lines except where building lines are involved. This can include part of an easement with the understanding that utility firms can remove any fence while installing electrical line.

2. Fences CANNOT be installed across the front of houses and they should not extend to the front further than the front wall line of a house.

B. Construction Materials:

1. Metal, wood and vinyl are acceptable materials of construction for non-lake front lots. A wood fence must be treated or stained unless the fence is made of cedar.

2. Fences behind townhouses and water front houses must be wrought iron or chain link to avoid obscuring adjacent homeowners view of the water. Also, they can be run to the shoreline to contain pets.

C.Existing Fence Modification or Replacement: Whenever an existing fence is to be modified and/or replaced, its plans must be *approved* by the Architectural Control Committee before construction begins.

D.Height: Fence height must not exceed six feet six inches (6' 6") feet from the ground.

12. Good Neighbor Policy:

- a. Hours of Construction:** The workday may begin at 7:00 AM or later and work will stop at sunset or 7:00 PM, whichever comes first. These limits will govern work on Saturdays, Sundays, and holidays. All deliveries of material and equipment are to be scheduled during these hours
- b. Sound and Noise Nuisances:** Radios or other audio equipment shall have volumes set so as not to offend neighbors near the construction site area. No obnoxious activity of any kind can emanate from the work site that adversely affects neighboring homeowners or the community in general.
- c. Parking:** Owner's, Builder's, Contractors and Sub-Contractor's vehicles are to be parked as much off the road as possible. Deliveries must be unloaded on arrival at the site. Every effort must be made so that they do not impede traffic flow.
- d. Trespassing:** In no case may adjacent lots to the construction site be used as temporary storage of materials or vehicle parking, or for traffic routes for construction equipment and delivery vehicles to and from the construction site. The Owner may attempt to gain permission from the lot owners adjacent to the site for these purposes. Should the Owner be given permission, the ACC must be notified in writing that permission has been given.
- e. Ruts and Debris:** The Owner will be responsible to repair any ruts caused by construction equipment and delivery vehicles on any lot. The Owner must ensure that the debris is properly covered in accordance with the law. The Owner is responsible to retrieve and dispose of debris that spills out of vehicles while leaving the subdivision.
- f. Construction Equipment:** In no case can construction equipment be "stored" at the construction site. The equipment may be brought to the site the day before the intended use period and must be removed the day after it is no longer needed at the site.

- g. **Pets at Construction Site:** The ACC prefers that animals not be brought to the site. However, there is no rule against it, but the animal must be on a leash at all times in accordance with Montgomery County Animal Control Ordinance. Furthermore, the animal must not create a "noise" nuisance.
- h. **Alcoholic Beverages:** No consumption of alcoholic beverages of any kind will be allowed at any construction site in Cape Conroe. This includes, but is not limited to, beer, wine coolers, liquor etc. If consumption of alcohol is observed, the ACC will contact appropriate members of law enforcement.

13. **Harmony and Conformity Rules:**

- a. **Flip Plans:** The ACC will not accept plans for consideration that are marked 'flip'. A complete set of actual building plans are required for consideration.
- b. **Tree Preservation:** No trees may be removed from a lot until a new home construction plan has been approved by the ACC. The Owner is to make every effort to save as many trees as construction allows. If there are no trees on the lot, at least one tree of no less than three (3) inches in diameter must be planted in the front yard as part of the final landscaping.
- c. **Landscaping Plans and Requirements:** A complete landscaping plan must be submitted along with the other documents required for consideration of the application. The plans must include a site plan that depicts the property lines, easements, setback lines, slab footprint, driveways, and drainage. Bedding areas and areas to be sodded must be clearly indicated on the plan. The plan should indicate the location, type, quantity, and size of proposed plants.
 - i. All areas of the property that are not covered by construction or landscaped for flower/plant beds are to be covered with sod. This provision specifically requires each lot to be covered with sod up to the edge of all adjacent roads and property lines and including any ditch that borders an adjacent road.
 - 1. Bedding areas shall be prepared with an appropriate mulching or soil enhancing material to enrich the existing soil. Bedding areas should be raised sufficiently to provide adequate drainage away from home foundations.
 - iii. Appropriate plants shall be planted to visually screen air conditioning units, swimming pool equipment, and other utility installations that are visible from the front or side of the structure.
 - iv. Corner lots must be landscaped with appropriate foliage and plant beds on each side of the corner lot that faces a street.

- d. **Front Elevation Repetition Policy:** One of Cape Conroe's special characteristics is the appearance of a "custom built community" and to this end, the ACC will impose a strict adherence to the following rules pertaining to front elevations:
- i. Front elevation designs may be duplicated in the subdivision but only to the extent that they are not repeated in more than 5% of the total lots in the subdivision;
 - ii. Homes built as part of this 5% allowance will not be in a line-of-sight of each other;
 - iii. Duplicate homes will be further restricted by having no less than twelve consecutive lots between them;
 - iv Duplicate homes MUST be of a different masonry, roof, and paint colors;
 - v. Any change to the architectural features that reduce the impact of duplicate use of the same elevation plan is encouraged and will encourage the ACC to approve the plans;

14. **Detached Buildings:**

- a. **Foundation or Supports:** Floor supports should be brick or concrete blocks as a minimum to prevent rotting, rusting and termite attack. These conditions can lead to an unsightly appearance. Better options are treated wood skids on bricks and treated platforms on treated posts set on concrete. The open space beneath the building should be covered with a lattice to keep varmints out. Lighter buildings should be anchored to supports to prevent wind damage. Acceptable anchors are concrete slab "3" bolts, bricks and concrete block, platform bolts, and earth anchors.
- b. **Building Materials:** Both metal and wood are acceptable. Outside surfaces must be stained or painted.

15. **Swimming Pools Fence:** A pool must be contained within a fence no lower than six feet six inches (6'6") in height.

16. **Plumbers and Plumbing:** Any and all plumbing installation or alteration must be performed by a plumber with a master plumber's license and with an emblem evidencing a master plumber's license prominently displayed on his or her vehicle.

17. **Carports:** Carports or a lean to shall be permitted, The Owner shall comply with all building setback lines when constructing said carports and structures.

18. **AC/H Units:** Construction shall include installation of a home central AC/H units. Window mounted air conditioning units are expressly prohibited, and shall not be allowed to be installed, placed, or erected as an improvement on any home within the Subdivision.

PART FIVE

Foundation Construction and Flood Control

Each new Applicant for a home/townhouse must have a foundation plan prepared by a State of Texas registered professional engineer and must be stamped and signed by the plan's designer. The plan must be based on a soil sample(s) taken from the actual subject lot. This test must be by an **approved** agency using State-approved methods. A copy of the soil test must be submitted to the ACC along with the engineered foundation plan.

1. **Foundation Construction:**

- a. Foundation construction must be capable of accommodating all loads according to Section R301 and R401 of the International Residential Code for One- and Two- Family Dwellings (IRC 2000) and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations must be designed, installed, and tested in accordance with accepted engineering practice;
- b. The finished floor elevation must be one foot above the nearest downstream sanitary manhole cover. If for any reason the slab is built below the elevation of the nearest manhole cover, a backflow valve must be installed;
- c. The finished floor elevation must be indicated on the slab survey to be reviewed by the ACC. If the elevation is not indicated on the slab survey, the ACC will not consider the Application;
- d. An engineer's independent affidavit of foundation construction in compliance with the approved plan will be required prior to continuance of any further construction;
- e. All garages on homes, even with elevated pier and beam foundations, must be a concrete foundation.

2. **Waterfront Homes:**

- a. **Elevation:** On waterfront homes, the finished floor elevation of the home shall not exceed an elevation higher than the 208 foot elevation level unless prior written approval is granted by the ACC
- b. **Facade Skirting/Fencing:** On water front homes, any raised elevation or pier and beam elevation will include facade skirting and/or fencing, and the facade skirting or fencing shall match the style and color of the home.

3. **Flood Control:** The owner should familiarize himself or herself concerning the natural flow of water over the land and that this natural flow not be impaired. However, it is incumbent on the Owner to provide for appropriate drainage and flood control improvements during construction and as part of the final landscaping plan.

- a. **Drainage and Flood Abatement Plan:** This must be submitted at the time of the Application. The plan must be prepared as a separate plan with a full explanation of how the natural flow will be redirected and not cause flooding of the neighboring lots and downstream lots.
- b. **Final Grade Improvements:** Gentle swales or improved slopes may be employed to direct any surface water to the drainage ditches.
- c. **Subsurface Improvements:** French drains, perforated or non-perforated drainpipes, and berms may be used to redirect the natural flow.
- d. **Plan Failure:** Should the Drainage and Flood Abatement Plan fail to protect the adjacent or down-stream lots from flooding, the Owner will revise the plan and immediately repair all damage or make restitution to the lot Owner sustaining any damage, by the failure of the plan.
- e. **Temporary Drainage Requirements:** Temporary drainage during construction and final grade shall be considered to provide the maximum efficiency for site drainage to an approved collection point and further conveyance into the drainage system.

PART SIX

Inspection Policy and Proper Notification to the ACC

The State of Texas has legislated minimum building standards for all residential builds throughout Texas, initially referred to as IRC 2000. The ACC has adopted these standards as provided under this State law. The ACC will not inspect each structure for compliance with this law, but it will require a statement from the Owner that the minimum standards as required within IRC 2000 and as amended will be used throughout the construction of the building constructed in Cape Conroe. Should it be discovered that the Owner did not actually build to the IRC 2000 standards and as amended, at the discretion of the ACC, such Owner may be prohibited from undertaking any future construction at any location within Cape Conroe.

1. Notification Requirement:

- a. **Pouring Cement for the Foundation:** The ACC must be notified by fax or email 48 hours prior to the pouring of the foundation. Documents should be sent by telefacsimile or email to Montgomery County Precinct at 936-582-6898. Additionally, the ACC must receive a copy of the final inspection report prepared by the certified engineer which states that the foundation was poured in compliance with the approved foundation *plans*. The Owner is hereby notified that the "wash out" of the cement trucks can occur only on the **building** site. **If** a "wash out" is performed in the subdivision, but not on the building site, an immediate fine of \$500.00 per incident will be imposed on the Owner, and the Owner will be required to clean up the washed out cement where the incident occurred.
- b. **Culvert Installation:** The ACC is to be notified after the culvert has been installed by the County and that construction is about to begin. Remember, in no event may the Owner install the culvert. This must be done by Montgomery County.
- c. **Unexpected Construction Problems or Delays:** The ACC is to be notified in writing should the Owner encounter problems or delays. The owner should detail the nature of the problems or delays and the Owners plans to overcome the problems or delays.
- d. **Construction and Final Landscaping Completion:** When no further construction is required and the final grade and landscaping has been completed, the Owner must notify the ACC in writing and request the return of its Security Deposit.
- e. **Return of Deposit:** Necessary paperwork for return of deposit is to include slab survey, and final survey, including any and all fencing installed on the property, frame and mechanical inspection, and final inspection by a certified RIAT code inspector.

PART SEVEN

Construction Completion, Final Grading and Landscaping, and Security Deposit Refund

- 1. **Construction Completion:** The responsibility for meeting the 365-day requirement for Completion rests solely with the Owner. Should additional time be needed, the Owner may request additional time from the ACC. This request must be in writing with a full explanation as to the need for additional time. It is the sole discretion of the ACC whether to grant an extension or not;
- 3. **Final Grading and Landscaping:** The Owner is to arrange an appointment with a member of the ACC to meet the Owner at the construction site to review all aspects of the approved Final Grading and Landscaping plans for compliance and acceptance by the ACC;

3. **Security Deposit Refund:** The Owner may request the Security Deposit refund after the ACC has accepted the building as completed and ready for occupancy. Any outstanding fines will be deducted from the deposit and the balance refunded to the Owner. If there are outstanding fines, which have not been paid, and the balance of the security deposit will not cover these fines, the Owner must forward a check to the ACC in the amount of the outstanding fines. If the Owner does not satisfy the outstanding fines, the Owner will be prohibited from building on any lot located within Cape Conroe until these *fines* are paid. The entire amount of the balance of the security deposit that remains in the possession of CCPOA after one year from the Construction Start Date listed by the Owner in Part Three (B) of this Application will be forfeited immediately by the Owner and will become immediately the property of CCPOA.

PART EIGHT

Violation of Deed Restrictions and this Application

The Owner understands and agrees that the Owner will be personally liable to the Cape Conroe Property Owners Association for severe civil penalties and monetary damages if such Owner fails to complete construction by the Completion Date declared by the Owner in Part Two, (A)(8) of this Application, or undertakes construction or alterations at variance to the approved plans, or violates the Deed Restrictions in any manner during such construction or alterations.

If violation of the Deed Restrictions occurs after approval has been given, the Owner must correct the error within fifteen (15) calendar days after written notification by the ACC or its attorney. The Owner understands Texas law provides that residential restrictive covenants may be enforced in courts of law. The Owner is directed to consult the Owner's legal advisors as to the ultimate amount of damages and liabilities that may result for violations of the residential restrictive covenants.

PART NINE

Intent of ACC

It is the intent of the Architectural Control Committee (ACC) to administer the Cape Conroe Subdivision Deed Restrictions (CCSDR) and to abide by the rules and obligations outlined in those restrictions.

The primary goals of the rules and obligations are as follows:

1. To enforce the size requirements for a house/townhouse or building or other structure based on the lot size and any restrictions placed on those lots.
2. To maintain the "harmony and conformity" of the community throughout the Subdivision.

3. To make rules as authorized in the Deed Restrictions to provide minimum requirements for all Owners to ensure a reasonable level of quality building materials, structure design, and flood control and abatement.

4. To apply all the restrictions and rules in a fair and equitable matter to all Owners and to levy penalties on those Owners that, in the opinion of the ACC, are in violation of those restrictions and rules.

The ACC does not intend to impede the normal and orderly construction of any *new* houses or other construction in the Subdivision; however, it is the duty and the responsibility of the lot owners and their builders to respect the rights and the property of other homeowners as the new structure is being constructed. If the ACC finds noncompliance issues and the issues are not resolved in a timely matter, the ACC may impose fines against the lot owners, the Owner or both. The amount of the fine will be deducted from the deposit as discussed in Part Three above.

PART TEN

Additional Information Regarding This Binding Agreement

This application is created by the ACC to assist it with performing its function as defined under the Deed Restrictions. If any portion of this application is or is found to be in conflict with the Deed Restrictions, then the Deed Restrictions shall govern. Furthermore, no portion of this application or action by the ACC shall be construed by any Owner as a waiver of any one or all of the Deed Restrictions by CCPOA or the ACC.

The Parties agree that this Agreement has been made in Texas and that it shall be governed by and construed pursuant to the laws of the State of Texas and venue for any action under this agreement shall be exclusively in Montgomery County, Texas.

The Parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the Parties and that this Agreement supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

The Parties agree that any notice or writing required under this agreement or permitted by this Agreement or any law of the State of Texas shall be deemed to have been delivered by mail upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service and addressed, as appropriate, (a) to the Owner at the address given in Part Two of this agreement, (b) to the Builder and/or Contractor at the address given in Part Two of this agreement, or (c) to the ACC and/or CCPOA at Investment Management Company, c/o Steve Durham, 3500 West Davis Street, Suite 190, Conroe, TX 77304.

If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs of court in addition to any other relief to which that party may be entitled. This provision shall be construed as applicable to the entire Agreement.

Initials: Owner(s) _____ Builder(s): _____ Contractor(s). _____ Application Page 19 of 22 (Rev. 08/2024)

If any court of competent jurisdiction adjudicates any part of this Agreement invalid, illegal, or unenforceable, that judgment shall not impair or nullify the remainder of this Agreement, and its effect shall be confined to the portion involved in the judgment.

Neither CCPOA nor the ACC assumes any liability for any actions performed by any Owner, Builder, Contractor, or Sub-Contractor or any agent(s), and/or employee(s) of any Owner, Builder, Contractor or Sub-Contractor.

PART ELEVEN

Signatures

By his or her signature below, each owner, builder, and contractor, if any, AGREES TO EACH OF THE FOLLOWING.

1. He or she has read and understands the Deed Restrictions pertaining the Owner's real property in Cape Conroe;
2. He or she has read and understands all parts of this application and agrees to abide by all the terms and requirements of this application;
3. He or she understands and is specifically aware that this entire Application includes many important requirements with severe consequences for non-compliance, and that most are not listed or re-listed in this "Part Eleven" of the application;
4. All activities and construction involving the property will conform to the Deed Restriction and the rules as stated in this Application;
5. He or she is responsible to inform his or her contractors and/or subcontractors, if any, of the requirements of both the Deed Restrictions and this Application;
6. To follow the plans and specifications EXACTLY as submitted to the ACC and approved by the ACC;
7. The Owner is legally responsible for all actions taken by the Builder, General Contractor and all Sub-Contractors, if any, involved in the construction of the building on the Owner's lot; and
8. The Owner understands the approval by the ACC expires on the 365th day after such approval if construction has not yet begun. If the Owner wishes to undertake the same or new construction after that time, a new set of plans must be submitted to the ACC for approval to conform to the then current Deed Restrictions and requirements of the ACC.

I HAVE CAREFULLY READ THIS AGREEMENT AND FULLY UNDERSTAND ITS CONTENTS AND BINDING EFFECT. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO HAVE THIS AGREEMENT *REVIEWED* BY AN ATTORNEY OF MY CHOOSING PRIOR TO THE TIME THAT I SIGNED IT. I UNDERSTAND THAT THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN ME AND CAPE CONROE PROPERTY OWNERS' ASSOCIATION, INC. THAT AFFECTS MY LEGAL RIGHTS. I REPRESENT THAT I AM SIGNING THIS AGREEMENT KNOWINGLY, VOLUNTARILY AND OF MY OWN FREE WILL.

OWNER:	OWNER:
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
_____	_____
Date: _____	Date: _____

BUILDER: _____

By: _____

Print Name: _____

Date: _____

CONTRACTOR: _____

By: _____

Print Name: _____

Date: _____

PART TWELVE

Form For Use by Architectural Control Committee

APPROVED: _____ **Date:** _____ **REJECTED:** _____ **Date:** _____

Application Number: _____

Address: _____

Requirements BEFORE approval can be given:

NOTE: IF REJECTED, A NEW APPLICATION MUST BE SUBMITTED AND APPROVED BEFORE WORK CAN BEGIN.

Chairperson of the ACC **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

ACC Member **Approved** [] **Disapproved** [] **Date** _____

Initials. Owner(s) _____ **Builder(s):** _____ **Contractor(s):** _____ **Application Page 22 of 22 (Rev 08/2024)**

EXHIBIT "C"

Application for Home Modification / Improvements

**ARCHITECTURAL CONTROL GUIDELINES AND REGULATIONS OF
Cape Conroe Property Owners Association, Inc.
(Amended April 2021)**

**CAPE CONROE PROPERTY OWNER'S ASSOCIATION
ARCHITECTURAL CONTROL COMMITTEE**

3500 West Davis #190 • Conroe, Texas 77304
Tel: 936-756-0032 • Email: tammvoerry@pirnomanagement.net

APPLICATION FOR HOME MODIFICATION / IMPROVEMENTS

ACC Application Number: _____ **Application Date:** _____

Physical Address and Legal Description of Construction Modification / improvement:

_____ Lot ____, Block _____, Section _____

Property Owner: _____ Phone Number: _____

Current Address: _____ Alternate Phone: _____

City/State: _____ Zip: _____ Emergency Phone: _____

Contractor Name: _____ Contractor Phone: _____

Contact Person: _____ Emergency Phone: _____

Proposed Improvement: _____

Proposed Commencement Date: _____ (Must be within 30 days of the approval date indicated below)

Proposed Completion Date: _____

NOTES: All Applications Must Pay a **\$25.00 administration fee payable to Cape Conroe POA** for all Improvements/Modifications for fence, paint, roof, and driveways (driveways will have guidelines as follows). **DRIVEWAYS:** All new homes shall have driveways with a minimum of #4 rebar (1/2") on 16" centers and 4" in depth. When replacing existing driveways, the same rules apply.

LOT OWNER AGREES TO: Attach complete details including blueprints, drawings, sketches, catalog cuts, photos, dimensions, etc. as necessary for a complete understanding of the project by the ACC committee members and to construct the improvements described above in accordance with the plans and specifications submitted with this Application. **Read carefully and** review the Deed Restrictions applicable to the above-described property and will ensure that the improvements will be made in compliance with such Deed Restrictions. Copies of the Restrictions are located on the website at www.capeconroepoahom.com. In addition, the Lot Owner agrees to correct any violation to such Deed Restrictions within ten calendar days after written notification. The Lot Owner understands that Texas Statutes provide that residential restrictive covenants (Deed Restrictions) may be enforced in courts of law. I have read and understand the Cape Conroe Deed Restrictions and agree to conduct my improvements in accordance therewith.

Lot Owner Signature: _____ Lot Owner Signature: _____

Date Received: _____ **Date Approved:** _____

ACC Committee Member

ACC Committee Member

E-FILED FOR RECORD

11/08/2024 12:46PM



L. Brandon Steinmann

County Clerk,
Montgomery County, Texas

STATE OF TEXAS,
COUNTY OF MONTGOMERY

I hereby certify that this instrument was e-filed in the file number
sequence on the date and time stamped herein
by me and was duly e-RECORDED in the Official Public
Records of Montgomery County, Texas.

11/08/2024



L. Brandon Steinmann

County Clerk,
Montgomery County, Texas