



Property Owners Assoc., Inc.  
15816 Malibu East  
Willis, TX 77318

**BEFORE YOU BUILD!**  
**REQUIREMENTS OF CAPE MALIBU  
PROPERTY OWNERS ASSOCIATION**

**(Please initial box on the left as you have completed each requirement)**

Compliance with the deed "Restrictions and Covenants" of Cape Malibu is necessary. Please study the document carefully since it contains specific restrictions which will affect your construction plans regarding land use, easements, building sites, location on lot, building type and size, sequence of building, temporary structures, water and sanitary systems, storm drainage system and other provisions designed for safe-guarding and enhancing the value of your investment.

Cape Malibu highly values the natural environment, as such, it is expected that your architectural plans identifies on your lot plot, existing trees, with greater than a 8 inch diameter, and indicates the minimum number of trees that will be needed to be removed for Construction of your new home. Each tree greater than 8 inch diameter must be individually marked by number with that number noted on the plot.

You must furnish the Architectural Control Committee (ACC) with a copy of a recent Certified Survey. Your lot corners must be clearly marked for inspection by the Committee.

**You must have the San Jacinto River Authority septic permit before starting construction.** The current procedure for obtaining one is; (a) Contact a Registered Sanitarian or a Professional Engineer to perform a site evaluation, (b) The person selected must design a system based upon the site evaluation, (c) Submit an application with the site survey and system plan attached. The San Jacinto River Authority will issue a permit. The names of Registered Sanitarians, Professional Engineers and Licensed installers are available in the office of the River Authority. **The CMPOA Architectural Control Committee prefers aerobic type systems with any exception to be reviewed by the CMPOA BOARD.**

**You must obtain a permit from the San Jacinto River Authority for the construction of a boat dock.** The current procedure for obtaining one is (a) Contact a Registered Marine Construction or a Professional Engineer to perform a site evaluation, (b) The person selected must design the dock based upon current SJRA regulations and size limits, and be compliant with Cape Malibu Architectural guidelines. (c) Submit an application with dock building plan, plot layout and an approval letter from the ACC. The San Jacinto River Authority will issue a permit. There is an annul license fee required for the dock.

**You must obtain an irrigation license from the SJAC giving the rights to pump water from the Lake to water your lawn. This license requires an annual fee.**

**To obtain permission to build a bulkhead on your lot requires a permit issued by the U. S. Corp of Engineers located in Galveston. There is no fee required at this time but the Corp. is required to make an onsite inspection of the area before a permit will be issued. This means that some time is required to obtain the license.**

Submit to the Architecture Control Committee at least thirty days before anticipated ground-breaking; two copies of your plans, including the plot plan which shows tree locations, plan for final grade elevations, storm drainage plans, construction specifications, plans of septic system, and a construction deposit in the amount of \$650.00. Make the check out to CMPOA, this deposit is to cover the cost of any repair due to damage from construction equipment or delivery vehicles. When your plans are approved the deposit is non-refundable. Your house plan, plot plan, bulkhead and boat dock (if applicable) plus septic layout must be professionally drawn or equivalent. One copy will be kept in CMPOA files and the other returned to you with notation of approval or with specified modifications if they are needed. CMPOA will hold the owner responsible for any damage caused by the building process. Please submit all required documents together at one time.

Apply to **Cape Malibu Water Supply Corporation (CMWSC)** for a water tap at least thirty days before water is needed. At that time you must sign an agreement permitting inspection of the plumbing facilities to prevent any possible unknown cross-connections or sources of contamination. Following construction and before occupancy the Operator for a fee must perform a Customer Service Inspection. If any backflow preventers are installed, including lawn sprinkler systems, the new owner must have the unit tested by a State Licensed technician with a copy of the report sent to the Operator. All backflow preventers must be tested every three years by a licensed inspector selected by the owner. **An independent Operator manages CMWSC activities.**

Certain requirements are not detailed in the Deed Restrictions. The Architectural Control Committee will not approve wood shingle roofs. Also, all exterior construction, house, garage and any other building, including painting, must be completed within twelve months after plan approval by the ACC.

The mean elevation of the normal pool of Lake Conroe is 201 feet M. S. L. (mean sea level). The 100-year floodplain of Lake Conroe is 203 feet M. S. L. The San Jacinto River Authority has an easement to raise the level of Lake Conroe to 207 feet M. S. L. Finished floor elevations should be built at least 207 feet M. S. L. for lake front lots.

Should there be a conflict between the requirements to build a house with a slab at 207 M. S. L. elevation and the height restrictions in paragraph 1, the ACC can approve (with Board Agreement) an exception to the height restrictions.

One of the outstanding features of Cape Malibu is the dense growth of trees throughout the subdivision. To maintain this pleasant environment CMPOA expects all owners, when building, to keep as many trees standing as possible to enrich the property values of the homes. **Any trees over five (5") inches in diameter on CMPOA street right-of-way (sixty (60) feet wide) must not be removed without Architectural Control Committee approval.** This applies to all trees including those, which may block access to a driveway. Approval will not be unreasonably withheld.

No cutting of trees, eight (8") inches in diameter or larger, is allowed before building plans have been approved by the ARCHITECTURAL CONTROL COMMITTEE except for dead trees and/or to prevent danger to adjacent structures or roadways.

All construction plans must include provisions to control drainage across the property which does not cause hardship to a neighbor's property. Driveway culverts, **when needed**, should have a minimum diameter of eighteen (18") inches. Smaller diameter culverts, but not smaller than 12 inches in diameter, may be approved by the ACC when the change of elevation across the entire lot is small. Also driveways should be designed to divert storm runoff away from garages and other openings to the house.

Construction materials and debris must be kept picked up during construction. The Architecture Control Committee requires the use of a roll off container as a means to dispose of debris. Excess cement must not be discharged by the cement contractor on the roadside or on vacant lots inside Cape Malibu. Portable Toilets are required to be on the premises of any home construction until the plumbing facilities are operable in the house. Please inform your contractor of these requirements. Infractions not timely remedied by the Contractor will be cleaned up by CMPOA and charged to the Owner.

A meeting with the General Contractor, the property owner, and a member of the Architectural Control Committee should be held before final approval.

**Please inform your contractor that CMPOA does not allow trucks with a bed length of greater than 30 feet to enter the subdivision.** This restriction includes trucks with semi-trailers. Contact the Architectural Control Committee if your contractor cannot comply with this restriction.

**RECOMMENDATIONS OF CAPE MALIBU PROPERTY OWNERS ASSOCIATION**

Signs allowed by the Restrictions and Covenants are not to be attached to trees.

The ACC will not approve any plans when an owner is past due on account with CMPOA.

Before starting construction you must obtain a building permit from the Montgomery County Engineering Permit Department. This document is to be displayed during construction. A letter, obtained from the Water Operator, stating that potable water will be provided by Cape Malibu Water Supply Corp. is required for the building permit.

Obtain a General Warranty Deed on your property before building. Do not build if you only have a "Contract for Deed" since you do not own the lot and liens maybe placed on it through no fault of yours.

Treat the ground for termites before pouring your foundation.

Attachments to this document are text of interpretations and comments regarding various paragraphs of the Restrictions and Covenants.

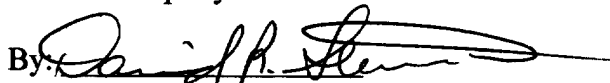
Please return signed copy to the Architectural Control Committee.

**Your signature below represents acceptance of these requirements.**

\_\_\_\_\_  
Signature of Property Owner Required by CMPOA

This document was reviewed and approved by the Board of Directors at the regular meeting on May 4, 2004.

Cape Malibu Property Owners Association

By:   
David Stewart, President

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**

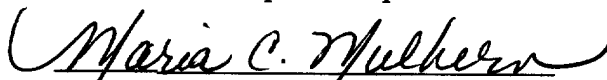
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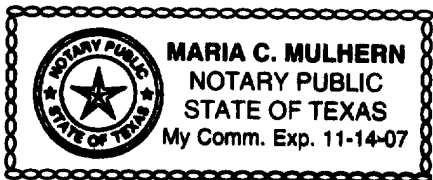
**COUNTY OF MONTGOMERY**

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This instrument was acknowledged before me on May 26, 2004, David Stewart, president of Cape Malibu Property Owners Assoc, Inc., a Texas non-profit corporation.

  
Notary Public in and for The State of Texas



**ATTACHMENT TO BEFORE YOU BUILD**

May 4, 2004

**Guidelines for Restriction #23 – Maintenance of Lots**

The report from the special committee, "Maintenance of Lots," has been accepted by the Board as guidelines for the evaluation of landscape practice for home sites and lots. This document summarized these guidelines in an effort to explain the acceptable standards for all owners. It is believed that this interpretation will provide an environment whereby an owner will be able to develop a landscaping program to meet his individual likes and still maintain a pleasing and orderly appearance for the subdivision.

All lots are divided into three parts for the evaluation process, the Front Yard, the Building Area and the Back Yard, which are defined as:

- 1 - The Front Yard extends from the street to front face of the house furthest from the road or twenty (20') from the front property line for lots without a house.
- 2 - The Building Area or middle part includes all buildings, driveways, decks and man made approved structures on the lot.
- 3 - The Back Yard of a lot is the area on a lot which is not included in the Front Yard or Building Area of the lot. The Back Yard, thus, is that portion of the lot, or connecting lots (with the same Owner) which begins at the front face of the house on the lot(s) location parallel to the road and continues out to the edges of the lot(s) and to the rear most corners of the lot(s). If the house has multiple front faces the Back Yard begins at that rear most front face parallel to the road.

Landscaping in the front yard must have a "KEPT" appearance to a reasonable person's evaluation. This evaluation is to be reached by a committee of the CMPOA Board after observing the average status of all Front Yards throughout the subdivision. These front yards are to be kept in a neat, trimmed and orderly manner on a regular basis. The lot owners will maintain the right-of-way portion of their lot adjacent to the streets. Although, owner planted gardens areas or other improvements in the easements or rights-a-way are at the owner's risk.

Landscaping in the Back Yard allows a wider range of owner defined preference. It is understood that the back portion of a lot may be a mix of owner planted or natural growth or any combination desired, but specifically should be kept clear of dead or fallen trees and major branches, standing water, weeds or brush that would foster the growth of or habitat of mosquitoes or vermin. However it is also to be maintained in a neat and orderly manner. As a minimum the grass must be mowed on a regular basis.

It is expected that any dissatisfaction with an individual owner's landscaping program will be first discussed between the near neighbors and the offending owner. Should this method fail to result in a satisfactory solution the Board will need to mediate a solution.

Should you have any questions do not hesitate to contact any Board member.

FILED FOR RECORD

2004 MAY 27 PM 3: 16

*Mark Tubball*  
COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS  
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in  
File Number Sequence on the date and at the time  
stamped herein by me and was duly RECORDED in  
the Official Public Records of Real Property at  
Montgomery County, Texas.

MAY 27 2004



*Mark Tubball*

County Clerk  
Montgomery County, Texas