

RETURN to:

2008-036903

556-11-2763



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 and this document is necessary for all new construction, exterior home remodeling and property upgrade activities. Please study the document carefully since it contains specific restrictions and guidelines which will affect your construction exterior remodeling and property upgrade 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 construction, exterior remodeling or property upgrade architectural plans for improvement should identify on your lot plot, existing trees, with greater than an 8 inch diameter, and indicate the minimum number of trees that will be needed to be removed to enable any improvements on the property. Each tree greater than 8 inch diameter must be individually marked by number with that number noted on the plot.

Two copies of all lot improvements requiring construction or changes must be submitted to the Architectural Control Committee (ACC) for review and their approval before any work may begin. For new homes, significant additions or exterior remodeling a construction fee is required.

For new construction or significant additions you must furnish the ACC with a copy of a recent Certified Survey. Your lot corners must be clearly marked for inspection by the Committee.

For new construction or improvements that increase the living space of your property you **must have the San Jacinto River Authority review and approve your septic system and issue a septic permit before starting construction.** The current procedure for obtaining one is to, first, call the SJRA to determine if a submittal is required, then; (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. Because of the small lot size and other considerations the San Jacinto River Authority will approve only aerobic type septic systems.

You must obtain a permit from the San Jacinto River Authority (SJRA) 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 annual license fee required for the dock.

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

All bulkhead work for Lake Conroe must meet U. S. Corp of Engineers (USCE) construction, rehabilitation/maintenance or repair requirements. For new bulkheads that require less than one cubic yard of fill for every linear foot of bulkhead there is an open permit for construction, all bulkheads that require more fill require that a permit be issued by the USCE. Please check their website at www.usace.army.mil or call USCE, Galveston at **409-766-3943 if an application for a bulkhead construction is required the fee is currently \$10.00 for processing. Processing takes 1 to 2 months for final approval. There is no license requirement for repair or maintenance of existing bulkheads.**

Submit to the Architecture Control Committee at least thirty days before anticipated ground-breaking; two copies of your dimensioned architectural plans, including the plot plan which shows tree locations identifying trees you want to remove or leave standing, plan for final grade elevations, storm drainage plans, construction specifications, approved plans of septic system, and a construction fee in the amount of \$650.00. Make the check out to CMPOA, this fee is to cover typical wear and tear of CMPOA roads and facilities. When your plans are approved the fee 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 excessive damage to facilities or roads 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. Whenever a backflow preventor is 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 Montgomery County Building Permits require a house to be built one foot above the 100 year flood plain or 204 feet M. S. L. The San Jacinto River Authority has a flowage 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, of the restrictions section of the "Restrictions and Covenants", 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 eight (8") 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 new construction, exterior home remodeling or property upgrades. The Architecture Control Committee requires the use of a rubbish container as a means to dispose of debris from construction activity. Burning within the subdivision of construction debris and household garbage is strictly forbidden. Violations of this

no burning clause will result in notification to proper authorities. Excess cement must not be discharged by the cement contractor on the roadside or on vacant lots inside Cape Malibu. Toilet facilities 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 an overall length of greater than 45 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 new 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.

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 April 3, 2008 and is effective for all construction beginning May 1, 2008 and later.

Cape Malibu Property Owners Association

By: Dean Miller
Dean Miller, President

ACKNOWLEDGEMENT

STATE OF TEXAS

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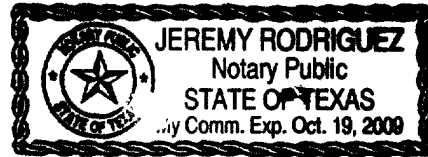
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COUNTY OF MONTGOMERY

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This instrument was acknowledged before me on April 14, 2008, Dean Miller, president of Cape Malibu Property Owners Assoc, Inc., a Texas non-profit corporation.

[Signature]
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.

Update: (October 1, 2006) In any event the minimum requirement for vacant lots is that the lawn must be mowed at least three times per year as scheduled by the CMPOA.

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

ATTACHMENT TO BEFORE YOU BUILD

October 1, 2006

Guidelines for Restrictions – General Provision #6 – Architectural Control

Owners are responsible to maintain their property in a state of good repair and maintenance employing quality of workmanship and materials to maintain harmony with existing structures and to enhance the value of the property.

Guidelines for Restrictions – Paragraph #15 – On the Street Parking

The streets in Cape Malibu are narrow and do not allow for parking on the street surface. Parking is allowed on the street right-of-way under the Restrictions but storage of vehicles is not allowed. When an owner holds a meeting, gathering or party which would result in parking of multiple vehicles it is expected that the owner would adhere to the following guidelines:

1. instruct the guests not to park on both sides of the street because it impedes normal traffic flow,
2. visitors should be asked to be considerate of neighbors property, and
3. overflow parking for large groups can be accommodated at Lands End.

Guidelines for Restrictions – Paragraph #15a – Storage of Vehicles

Storage of large commercial vehicles is prohibited anywhere within the subdivision as defined in the Restrictions. Storage permanently or semi-permanently of recreational vehicles, boats and trailers is allowed under a specific set of requirements. There are a number of questions regarding the temporary storage of these recreational vehicles for such activities as visitors of the lot owners, repair of vehicles and preparation for trips and other short time activity. As long as it is short term the activity is acceptable under the Restrictions. For example if visitors arrive in a recreational vehicle for a stay of one week it is reasonable and acceptable for anything longer a request should be made to the Board. Provisioning, cleaning and repair of recreational vehicles for periods up to three days are reasonable and acceptable. Other temporary storage requirements should be referred the Board for action.

Guidelines for Restriction #2 – Temporary Structures and Utility Buildings

Utility or storage buildings are to be built on site. No portable or pre-constructed buildings are to be brought into the subdivision. Drawings, location on lot, plans and specification for buildings, including pre-engineered buildings are to be submitted to the ACC for approval.

May 1, 2008

Guidelines for Restriction #12 – Walls and Fences

Type and style of fences. Fences may be approved, but no fence shall be built that it obstructs the view of the lake. All fences on lakeside lots are to be such that they may be “seen through”; for example, but not limited to: split rail, traditional picket (max. 6” horizontal spacing between pickets, with 1½”to 3½” vertical pickets), and wrought iron. No privacy fences (solid wood planking) will be approved for lakeside lots. Privacy fences may be approved for interior lots if a homeowners or neighbors view of the lake is not obstructed.

Plans and specifications, location on lot, description of type and height (maximum height of 6’ above the ground) for fences are to be submitted to the ACC for approval.

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.

FILED FOR RECORD

2008 APR 16 AM 10:37

Mark Turnbull
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.

APR 16 2008



Mark Turnbull
County Clerk
Montgomery County, Texas