

## ARCHITECTURAL CONTROL COMMITTEE (ACC)

### EXCERPTS FROM ALBERT 303 POA CC&Rs

#### DEFINITIONS

**"Design Guidelines"** shall mean the criteria and guidelines established by the Architectural Control Committee for the design and/or construction of all Improvements, landscaping and other exterior items within the Subdivision.

**"Improvement"** shall mean every structure and all appurtenances thereto of every type and kind located on any Lot in the Subdivision, including but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, basketball goals, swimming pools, and swimming pool equipment, garages, storage buildings, fences, gates, trash enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment and poles, pumps, wells, tanks, reservoirs, poles, pumps, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

**"Plans and Specifications"** shall mean any and all documents designed to guide or control the construction or creation of any Improvement, including but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, signage, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

#### DESIGN AND CONSTRUCTION REQUIREMENTS

*All of the Subdivision except utility lots and common areas shall be owned, held, encumbered, leased, used, occupied and enjoyed **subject to the following limitations and restrictions:***

Single Family Residential Construction. All Lots shall be used **solely for single family residential purposes** and no tract shall be used for commercial purposes. **No more than three dwellings shall be allowed on any Lot.** No building or structure shall be erected, altered, placed or permitted to remain on any tract without the approval in writing by the Architectural Control Committee.

Setback Requirements. All Improvements, except fences, on all Tracts **shall be set back at least one hundred (100) feet** from any Lot line.

All **single-story dwellings** that will serve as the primary residence must have at least one thousand six hundred **(1,600) square feet** of Living Area\* and must be built of new construction material.

All **two-story dwellings** must have at least two thousand **(2,000) square feet** of Living Area\* and must be built of new construction material.

\*The term “Living Area” does not include porches, breezeways, or garages.

**Two secondary dwellings** (i.e., guest house, casita, barndominium, etc.) may be built of new construction material **on each Lot** in addition to the main dwelling thereon. Such secondary dwellings must be **no less than seven hundred (700) square feet and no more than fifteen hundred (1,500) square feet** and shall require the approval of the Architectural Control Committee as to location, materials and plans. The foundation of any dwelling must be a concrete slab or a combination of concrete slab and piers.

The exterior walls of any dwelling constructed on a Tract shall be constructed of **no less than seventy-five percent (75%) masonry, or masonry veneer**, excluding windows and door openings. Masonry or masonry veneer includes stucco, ceramic tile, brick, fibrous cement (i.e., Hardi-plank), clay and stone. **The exterior of all chimneys shall be one hundred percent (100%) masonry** of a type and color matching the exterior walls of the dwelling. All outbuildings and temporary structures are subject to Architectural Control Committee approval as to the exterior finish.

**Roofing Materials.** The surface of all principal and secondary structures, any garages and any outbuildings shall be made of slate, stone, clay tile, or other tile of a ceramic nature, composition shingles with a thirty (30) year or more warranty or metal (using standing or battened seams). The roof may be left natural or painted a color approved by the Architectural Control Committee.

The ACC shall approve roofing shingles made of other materials that are designed primarily to:

- be wind and hail resistant;
- provide heating and cooling efficiencies greater than those provided by customary composite shingles; or
- provide solar generation capabilities;

And, when installed:

- resemble the shingles used otherwise authorized for use on property in the Subdivision:
- are more durable than and are of equal or superior quality to the shingles used or otherwise authorized for use on property in the Subdivision; and,
- match the aesthetics of the property surrounding the Owner's Tract.

**Colors.** All exterior colors of any structures must be **natural or earth tones and must complement the surrounding landscape.** The Architectural Control Committee may, in its sole discretion, approve other color schemes so long as such colors complement the Subdivision.

**Exterior lights** such as those for security, safety, and decorative reasons are allowed with prior written approval of the Committee, provided all exterior lighting is hooded or the main beam of light is at no greater than a thirty-degree angle from the ground.

**Walls, fences and gates**, if any, must be approved prior to construction by the Architectural Control Committee. Unless otherwise approved by the Architectural Control Committee, all fences must be constructed of metal, masonry, masonry veneer, wrought iron, wood, pipe, ranch fencing with t-posts or a combination thereof. **Chain link fencing shall not be permitted for use as perimeter fencing for a Lot**, but can be used on the interior for animals or bird containment only if such fencing is not visible from any street or adjacent property. All walls, fences and gates must be maintained in good condition.

**The guest/servants house and any detached garage must be of the same general construction and exterior as the dwelling, including exterior materials, roofing materials, and color** and must be located according to the Committee approved building site plan.

All **garages**, including but not limited to detached garages, **will be of the same general constructions and exterior finish as the main dwelling** and located on the Lot according to the Architectural Control Committee approved building site plan.

**Outbuildings**, including but not limited to barns, barndominiums, storage buildings, green houses, workshops, well houses, gazebos, cabanas, decks, car ports or pavilions, must be constructed of new materials and the location, design, materials, and plans must be approved by the Architectural Control Committee prior to construction. These types of outbuildings may be limited in number by the Architectural Control Committee and **shall be built on at a location that is behind the main dwelling.**

All dwellings must be served with electricity and telephone through the front of the Tract. All dwellings must be connected to a septic system. **No Improvement shall use an electric generator as its primary source of electricity.**

No person or persons shall impair the natural established drainage patterns of streets, Tracts or roadway ditches. No creeks or natural drainage areas may be dammed or water impounded, diverted or used for any purpose without the prior written approval of the Architectural Control Committee. **Driveway culverts must be installed** and will be of sufficient size to afford proper drainage or ditches without backing water up or diverting flow. Drainage culvert installation must meet County requirements.

While there is no time requirement on starting an Improvement, any dwelling, building, structure or Improvement commenced on any Tract **shall be completed as to the exterior finish and appearance within one year from the commencement date.**

The term "dwelling", "main dwelling" and "guest/servants house" does not include either industrialized housing, double wide, triple wide or manufactured homes, single wide mobile homes, or prefab houses **regardless of whether the same are placed upon permanent foundation**, and said homes are **not permitted within the Subdivision**. As used herein, "Manufactured home" includes but is not limited to, any prefabricated or pre-built dwelling which consists of one (1) or more transportable sections or components and shall also be deemed to include manufactured housing, manufactured home, HUD-code manufactured home and mobile home as defined by the Texas Manufactured Housing Standards Act, Title 83, Article 5221f, Vernon's Texas Civil Statutes.

Notwithstanding anything within this paragraph, no Lot Owner shall fence in any meter, utility pole or transformer or place a fence within **ten (10) feet** from any meter, utility pole or transformer.

## **PROCEDURES**

No Improvements shall hereafter be constructed upon any of the Lots **without the prior written approval of the Plans and Specifications for the Improvement(s) by the Architectural Control Committee**. Anything herein to the contrary notwithstanding, in the case of single family residences constructed on any Lot, the Architectural Control Committee, in its sole discretion, may limit its review of specific floor plans, and elevations, and upon the Architectural Control Committee's approval of such specific floor plans and elevations, residences may be constructed with the approved floor plans and elevations without the requirement of further review or approval by the Architectural Control Committee.

**Approval of Plans and Specifications.** Except for Improvements erected by the Developer, no Improvement shall be commenced, erected, constructed, placed or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the Plans and Specifications therefor shall have been submitted to and approved by the Architectural Control Committee in accordance herewith.

**Review of Proposed Construction.** Whenever in this Declaration, or in any Supplemental Declaration, the approval of the Architectural Control Committee is required, it shall consider all of the Plans and Specifications for the Improvement or proposal in questions and all other facts and Information which, in its sole discretion, it considers relevant, and may require an Owner to provide such other information as it deems relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Lot or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Control Committee, and construction thereof may not commence unless and until the Architectural Control Committee has approved such Plans and Specifications in writing. The Architectural Control Committee may postpone review of the Plans and Specifications until such time as the Architectural Control Committee has received all information reasonably requested.

Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement, shall be performed only with the prior written approval of the Architectural Control Committee.

**If the Architectural Control Committee fails to approve or disapprove in writing any plans and specifications within thirty (30) days following the submission of plans, or the receipt of any requested additional information, such plans and specifications shall be deemed approved** and the construction of any such building and other improvements may be commenced and proceeded with in compliance of such plans and specifications. The Architectural Control Committee shall perform such other duties assigned to it by this Declaration or as from time-to-time shall be assigned to it by the Board, including the Inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Control Committee. The Architectural Control Committee's approval of any Plans and Specifications shall **not** be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

The location of all Improvements located on a lot shall be subject to approval by the Architectural Control Committee. Minimum yard and setback requirements may be established in excess of those shown on the plat by the Architectural Control Committee or

by Declarant through a Supplemental Declaration in order to maximize open areas, pedestrian and vehicular movement and to benefit the overall appearance of the Property.

Any proposed construction of recreational improvements within a Greenbelt or any Amenity Areas shall be subject to approval by the Architectural Control Committee.

**Adoption of Rules.** The Architectural Control Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

**Variances.** The Architectural Control Committee may grant variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, when, in the opinion of the Architectural Control Committee, in its sole and absolute discretion, such variance will not impair or detract from the high-quality development of the Property, and such variance is justified due to unusual or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument in recordable form and must be signed by a majority of the Committee's Voting Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of these covenants and restrictions applicable to the Lots for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof.

**No Waiver of Future Approvals.** The approval or consent of the Architectural Control Committee to any Plans or Specifications for any work done or proposed in connection with any other matter requiring the approval or consent of the Architectural Control Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different person.

**Work in Progress.** The Architectural Control Committee, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications.

## **ACC ADMINISTRATIVE SECTIONS**

**"Architectural Control Committee"** shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

**Membership of Architectural Control Committee.** The Architectural Control Committee shall consist of not less than three (3) nor more than five (5) voting members ("Voting

Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as Declarant or its successors or assigns deems appropriate.

Actions of the Architectural Control Committee. The Architectural Control Committee may, by resolution, unanimously adopted in writing, designate one or two (2) of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Control Committee. In the absence of such designation, the vote of a majority of all the members of the Architectural Control Committee taken without a meeting shall constitute an act of the Architectural Control Committee.

Advisory Members. The Voting Members may from time-to-time designate Advisory Members.

Term. The Declarant shall appoint the initial members of the Architectural Control Committee. Such members shall serve until the termination of the Development Period. If any member resigns during the Development Period, the Declarant shall appoint its replacement. Such members are not required to be a Lot Owner. The Architectural Control Committee will act solely in the Declarant's interest and will owe no duty to any other Owner or the Association until the earlier of the termination of the Development Period or the Declarant delegates its rights, in writing, to the Members.

Non-Liability of Committee Members. NEITHER DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER WILL BE LIABLE TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION.

Neither the Architectural Control Committee, nor any member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any connected with the performance of the Architectural Control Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Control Committee or its members or the Board or its members, as the case may be. Neither the Architectural Control Committee nor the members thereof shall be liable to any Owner due to the construction of any Improvement within the Property.

## **EXCERPTS FROM ALBERT 303 POA BYLAWS**

### **ARTICLE VIII - Meetings of the Board of Directors**

The Board of Directors may not, without prior notice to owners, consider or vote on:  
(7) appeals from a denial of architectural control approval.

### **ARTICLE IX - Committees and Managing Agents**

3. The "Architectural Committee" shall exercise the functions required of such a committee under the recorded Restrictive covenants applicable to the Subdivision. The Architectural Committee is not limited to, but shall have at least three (3) Members from the Association and or employees of the Developer of the Subdivision. Any member of such committee may be removed by a majority vote of the Board of Directors when in the Board of Directors' judgment the best interest of the Association and the Lot Owners in the Subdivision shall be served by each removal. The Board of Directors shall appoint one of the members of the Architectural Committee as the chairperson of this committee unless deemed otherwise by the Board.