

**AMENDED ARCHITECTURAL CONTROL GUIDELINES
AND REGULATIONS OF
McDADE PROPERTY OWNERS' ASSOCIATION, INC.**

WHEREAS, the property affected by these Amended Architectural Control Guidelines and Regulations is subject to certain dedications, covenants and restrictions (the "Declarations") set out in instruments recorded in the Official Public Records of Real Property at Montgomery County, Texas, as follows:

McDade Estates Section One Amended and Restatement of Restrictions, Covenants and Conditions, found at Clerk's File No. 2005-099522, which were filed of record on September 2, 2005 of the Official Public Records of the County Clerk of Montgomery County, Texas; and

McDade Estates Section Two Amendment and Restatement of Restrictions, Covenants & Conditions, found at Clerk's File No. 2007-100263 which were recorded on August 24, 2007 in the Real Property Records, County Clerk, Montgomery County, Texas ; and

Restrictions and Covenants Applicable to McDade Estates Subdivision, Section III, in the W. S. Allen Survey, Abstract No. 2, Montgomery County, Texas, recorded on December 18, 1975 in the Real Property Records of the County Clerk, Montgomery County

WHEREAS, the Declarations for McDade Estates Subdivision, Sections I, II and III, provide:

ARCHITECTURAL CONTROL: No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the architectural control committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade.

WHEREAS, pursuant to the authority vested in McDade Estates Property Owners' Association, Inc. (the "Association") in the Declarations and as required by the TEXAS PROPERTY CODE, the duly-elected Board of Directors of the Association (the "Board") 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 hereby promulgates the following *Amended Architectural Control Guidelines and Regulations*.

WHEREAS, these guidelines supersede and take the place of any previous architectural control guidelines for McDade Estates Subdivision, Sections I, II and III, including but not limited to those Architectural Control Guidelines and Regulations recorded in the Real Property Records of Montgomery County, Texas under Clerk's File No. 2012069786.

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

GUIDELINES AND REGULATIONS

The following are guidelines adopted by the Board and approved by the Architectural Control Committee (the "ACC") to specify their 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. As an example, a home located on the perimeter of the development may be permitted to have a certain styled storage building, whereas on a main entry boulevard and depending on the configuration of the lot, this same item may not be approved. The intent is to maintain overall integrity within areas of higher visual impact.

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

Composition of the ACC: The ACC will consist of the Board and at least one homeowner resident who shall be a member of the Association and who shall be appointed by the Board.

A. APPLICATION PROCEDURE:

Section 1. Applications for New Construction and Remodeling.

Applications must explain the proposed improvement(s), and a copy of a detailed site plan must be attached. It is recommended that a copy of the survey received at closing be used so that relative distances and dimensions can be reviewed. Make sure to include all pertinent information and specifications along with a mailing address and telephone number. All applicants must complete the attached Application for New Construction or Remodeling (Appendix "A"). The ACC will not respond to verbal requests. Mail and/or physically deliver your Application for New Construction or Remodeling with supporting attachments to:

McDade Estates Property Owners' Association, Inc.
c/o Larry Foerster
1663 White Oak Creek Drive
Conroe, Texas 77304
936-756-1416- Home

Section 2. Compliance with the ACC Guidelines.

It is the responsibility of the applicant to make sure to obtain the most current guidelines before proceeding with an application for any improvement. Check with any member of the ACC to see if the Guidelines have been reissued or amended, or go to the Association website: <http://mcdadeestatespoa.multiply.com>.

Section 3. Approval of Neighbors.

It is the responsibility of the applicant to consult with his/her immediate neighbors about the proposed construction before submitting the Application to the ACC. While the ACC will not refuse an Application based upon an unreasonable objection by a neighbor, the ACC will consider all comments of neighbors with respect to quality of workmanship and materials, harmony of design with existing structures, and location with respect to topography and existing grade.

Section 4. Building Permits by City of Conroe

It is the responsibility of the applicant to acquire all the necessary building permits from the City of Conroe after receiving ACC approval but before construction commences.

B. APPROVALS / DISAPPROVALS / PROCESSING PERIOD:

The ACC will respond in writing to all applications. No verbal approval by a member of the ACC shall be binding.

The ACC has thirty (30) days from the date of receipt of a complete application within which to respond. If additional information is required by the ACC, the thirty (30) day processing period will commence upon receipt of the additional information. Plans for the implementation of the proposed improvement(s) should allow for the time required to complete the approval process. However, every effort will be made to respond promptly.

In the event the ACC fails to indicate its approval or disapproval in writing within thirty (30) days after receipt of the required documents, the application will be deemed to be approved.

If an application is not approved for any reason other than the failure to approve within thirty (30) days, the ACC will state in its letter why such approval was denied. If an applicant wishes to discuss or appeal a decision made by the ACC, the president of the Board should be contacted for an appointment with the Board.

Applications will only be accepted by homeowner or property owner of record. Applications will not be accepted from property owners who are delinquent on payment of Association dues, assessments, fines, and/or any and all outstanding monies owed to the Association.

All approved projects must be initiated within sixty (60) days of approval and must be completed with a timeline consistent with industry standards and practice. Homeowners may request an extension from the ACC based on extenuating circumstances such as inclement weather, contractor conflicts, etc.

C. EASEMENTS:

The ACC cannot approve any application if there is an encroachment into an easement until the homeowner provides a *Consent for Encroachment*, or resubmits revised plans. Any non-portable structure in an easement is considered permanent, and thus an encroachment. Owners must

secure a *Consent to Encroachment* or a *Release of Easement* from all affected utility companies. If proposed plans show an encroachment, a *Consent for Encroachment* must be obtained before applying to the ACC, or the application will be rejected. If there is an aerial easement on the lot, the utility company may permit placement of a permanent structure in the easement. It is the responsibility of the applicant to obtain a *Consent for Encroachment*.

Approval by the ACC of any encroachment into an easement shall not serve as an amendment or change of that easement and shall not create liability on the part of the ACC. Any encroachment into such easement shall be at the sole risk and expense of the owner.

D. VARIANCES:

Each application is considered on its own merit and the ACC may grant a variance from these guidelines or the Declarations with respect to building set back lines and all construction related restrictions, if, in the sole discretion of the ACC, the circumstances warrant. Variances will be granted in writing only, and when given, will become part of these guidelines only to the extent of the particular lot(s) involved. Because a variance may have been granted in a particular instance does not mean that a variance for improvements of a similar nature will be approved, or that the request for a variance does not need to be submitted for approval to the ACC.

E. INSPECTION:

All construction, improvements, modifications, additions, or alterations are subject to inspection by the ACC or its designated representative(s).

F. COMPLIANCE / NONCOMPLIANCE:

These guidelines include all relevant requirements from the Declarations, but also include many more supplementary details and restrictions that have been approved by the Board of Directors.

The original Declarations was in existence prior to any home building in McDade Estates Subdivision, Sections I, II and III. It is expected that all residents of McDade Estates Subdivision, Sections I, II and III will comply with the restrictions and requirements specified in that document. This includes the requirements to file an application for approval to the ACC for all proposed construction or modification of improvements as specified in the Declarations.

Owners shall comply with all applicable restrictions and shall observe the application procedures for any improvements. A homeowner is not in compliance if: (1) an improvement was made that is/was prohibited at the time of the improvement; or (2) an improvement was made without an application being submitted to and approved by the ACC; or (3) an improvement was made in which the “as built” specifications do not conform with an application submitted to and approved by the ACC.

Unapproved and/or prohibited improvements are subject to removal or modification at the owners’ expense, unless a variance is granted or an approval is obtained. Owners should apply

to the ACC for approval of any improvements which have not been previously approved by the ACC and the City of Conroe.

G. ENFORCEMENT:

Upon any violation or attempt to violate the Declarations or any of these ACC guidelines, it shall be lawful for the Association or any other Lot owner to prosecute any such violations against the person or persons violating or attempting to violate any such covenant, to prevent the person or persons from doing so and/or to recover damages or other costs and attorney's fees for such violations. **Failure by the Association or any owner to enforce any covenant or restriction shall in no event be deemed as a waiver of the right to do so thereafter.**

H. COMPLAINTS:

Property owners are encouraged to help maintain the beauty of McDade Estates Subdivision. To this end, all property owners have an obligation to conform to the Declarations and these ACC guidelines, and to ensure non-complying improvements come into compliance. Should you have a complaint regarding a violation, write or email to any member of the Board or ACC. All complaints will be reviewed by the ACC as promptly as reasonably possible.

I. CONTROLLING DOCUMENTS:

In the event of a conflict between these guidelines and the Declarations, the Declarations shall control.

J. GUIDELINES:

Section 1. Buildings.

1.1. A “**Dwelling Unit**” is defined as a residential building designed for, and limited and restricted to occupancy by a family as one *detached single-dwelling house* (as described in the Declarations) situated on a Lot, and does not include an accessory building or a garage. It does not include any structure not attached such as a storage shed, gazebo or playhouse/fort. All buildings and other structures including, but not limited to, swimming pools, awnings, and any other additions, must comply with the building set back lines as set forth on the recorded plat and the Declarations.

1.2 An “**Improvement**” is defined as a building, patio, pool, garage, carport, paving, fencing, or any other structure or permanent improvement to a Lot. No Improvement shall be constructed on a Lot except detached, single family residential Dwelling Units and other ACC approved Improvements.

1.3 Location of Building and Improvements. Pursuant to the Declarations, no Improvements shall be located nearer to the front, side or rear property line than as shown on the plat. No Improvement shall be located nearer to the front property line than thirty-five feet (35') unless otherwise shown on the recorded plat for such Lot. No Improvements shall be located nearer to a common side lot line than ten feet (10'), other than fencing.

1.4 Height. No Improvement shall exceed a reasonable height required for two (2) stories of living space (above finished grade). No garage or other Improvement shall exceed the height of the Dwelling Unit.

1.5 Garages and Carports. Except as otherwise approved in writing by the ACC, or as otherwise specifically set forth in the Declaration, each Dwelling Unit shall be served by an enclosed garage or carport large enough to provide parking for a minimum of two (2) cars. Garages may be detached or attached to the Dwelling Unit. Carports must be attached to the Dwelling Unit or garage. Additional permanent garage or carport structures must not exceed 40% of the footprint of the existing Dwelling Unit. Any such structures shall match the same design as the main residential structure and use the same or equivalent brick, siding and roofing materials so as to maintain a harmonious appearance. The conversion of garages to living area is expressly prohibited, unless the proposed conversion would result in a useable garage or carport with a minimum of space for two (2) cars. Detailed plans of any proposed conversion of garage space must be submitted to and approved by the ACC prior to construction.

1.6 Masonry requirements. The exterior finish of each residential Dwelling Unit shall be at least sixty percent (60%) brick, stone, stucco or other approved masonry. In computing such percentage, attached garages shall be included, but the roof area and detached garages are excluded.

1.7 Roof requirements. All residential Dwelling Units shall be roofed with tile, composition shingles, standing-seam metal roof or a built-up roof. The colors and quality of materials of the roofing are subject to ACC approval. Specific roofing material requirements are as follows:

a. All buildings shall be roofed with composition shingles unless otherwise approved in writing by the ACC. Wood shingles are specifically prohibited for safety reasons.

b. 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.

c. The color of roof shingles must be approved in writing by the ACC.

d. 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.

e. Ridge vents are encouraged, to improve ventilation, reduce attic temperature and reduce cooling costs, but are not required.

f. All roof protrusions, such as vents, roof jacks, must be painted to match the shingles.

g. Subject to requirement “h” below and with advance written approval from the ACC, an owner may install shingles (“Alternative Shingles”) which are designed primarily to:

(1) be wind and hail resistant; or

- (2) provide heating or cooling efficiencies greater than traditional composition shingles; or
- (3) provide solar energy capture capabilities.

h. Once installed, any such Alternative Shingles must:

- (1) resemble the shingles used or authorized to be used on other structures within the Association; and
- (2) 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
- (3) match the aesthetics of properties surrounding the owner's property.

Section 2. Outbuildings.

2.1 An "Outbuilding" is defined as any structure which is not attached to the main Dwelling Unit or garage. This definition does not include bona fide additions to the main Dwelling Unit or garages, but does include storage sheds, greenhouses, boat storage, recreational vehicle storage, gazebos and playhouse/forts.

2.2 Gazebos, forts, and tree houses shall be constructed of wood and other harmonious materials with colors subject to ACC approval.

2.3 "Storage sheds" shall be non-permanent structures with a footprint not to exceed a total of 200 square feet. Colors of the sheds shall be harmonious with the Dwelling Unit with appropriate acceptable paint and are subject to ACC approval. Materials to be used include wood, Hardiplank-type material, and roof materials that shall match the main residential structure. Storage sheds shall blend in harmony with surrounding homes and structures.

2.4 Any and all outbuildings shall be maintained properly and shall require ACC approval before being constructed.

Section 3. Porticos and Patio Covers.

3.1 Porticos, which are part of the home structure and which can be seen from the street, shall be constructed of materials which complement the main structure. In the event a portico is constructed, the roof of the portico shall be subject to the building setback lines in Section 1.3 above.

3.2 Prefabricated patio covers that cannot be seen from the street made of aluminum or vinyl may be approved providing they are of a color that substantially matches the Dwelling Unit trim color. Certain structures using wood framing may be allowed to go unpainted, provided insect resistant wood is used (such as cedar, redwood, etc.).

3.3 If attached to the Dwelling Unit, patio covers must be integrated into existing roof line or exterior wall; and if it is to be shingled, shingles must match roof. Entire patio cover and posts should be trimmed to match the Dwelling Unit. Supports must be brick, painted wood or painted metal columns. Pipe is not allowed.

3.4 At no time shall a shingled roof be allowed with an unpainted frame. The frame must be painted to match the trim of the Dwelling Unit, regardless of whether treated or untreated wood is used.

3.5 Patio construction materials are as follows:

- a. Painted wood (to match trim of Dwelling Unit);
- b. Naturally rot and insect resistant woods (such as cedar and redwood) may be used. Staining or painting is not required. All other woods must be painted or stained to match trim of Dwelling Unit.
- c. Aluminum or vinyl with colors that substantially match the Dwelling Unit trim.
- d. Patio shingles must match existing Dwelling Unit shingles.

General Note: All patio cover materials, *i.e.*, wood, lattice, brick, etc., must be completely framed so that no raw edges of material are visible.

e. With respect to miscellaneous shade structures that employ a canvas type material, the canvas must be kept in quality condition or its removal will be requested by the ACC.

The color of the canvas cover must be an earth tone (*i.e.*, black, brown, tan, beige, muted red or gray). No bright color such as blues, reds, greens or yellows are allowed.

3.6 Patio covers may not encroach into any utility easement unless the utility companies involved have granted their written consent to such encroachment.

3.7 Patio covers must be situated on the Lot to provide drainage solely onto the owner's Lot.

Section 4. Room Additions.

4.1 Exterior materials and colors of any room addition should match the Dwelling Unit.

4.2 Detailed plans of any proposed room addition with a list of materials must be submitted to the ACC before applying for the required building permit(s) by the City of Conroe.

4.3 Room additions may not encroach into any utility easements.

4.4 ACC approval will depend on architectural style and layout of Dwelling Unit, size of Lot, and how well room addition integrates with existing Dwelling Unit. Plans for room additions must show room size in proportion to room dimensions of the Dwelling Unit. Roof of addition must integrate with existing roofline so as to appear to have been part of the original Dwelling Unit.

4.5 Building permits are required by the City of Conroe and ACC approval is a condition of City approval. The ACC will grant approval with the provision that a copy of the City of Conroe building permit(s) must be received by the ACC within thirty (30) days of the ACC approval letter and prior to construction beginning.

Section 5. Exterior Painting.

5.1 Every Dwelling Unit should maintain an Earthtone color scheme harmonious with the existing structures in the neighborhood. If a homeowner intends to repaint in accordance with an original color scheme, no ACC approval is required.

5.2 Color changes must be approved by the ACC. Color of brick used on the Dwelling Unit and the colors of neighboring Dwelling Units are considerations.

5.3 Exterior paints and stains for each Dwelling Unit shall be selected to compliment or harmonize with the colors of the other materials with which they are used.

5.4 Wood siding and trim should generally stay within the Earthtone color family (*i.e.*, black, brown, tan, beige, muted red or gray – no primary colors such as blues, reds or yellows are allowed). Soft and muted Earthtone colors are acceptable. The use of white is also permitted. A color sample must be submitted to the ACC for approval before painting or staining may begin. The ACC retains the right to define the color shades as acceptable or not, consistent and in harmony with neighborhood house colors.

5.5 Extremely bold colors, primary colors, yellow, blue, green, or pastels are prohibited.

5.6 Front doors must be maintained. They may be stained a natural wood color, or painted the same color as the Dwelling Unit trim. Other paint colors may be approved on a case by case basis.

Section 6. Windows and Storm Doors.

6.1 The frames of windows must be white, bronze, tan or a color compatible with the exterior Dwelling Unit colors. No screen doors are allowed on the front of the Dwelling Unit.

6.2 Full view storm doors without screen panels will be permitted on the front of the Dwelling Unit if they are complimentary to the color of the Dwelling Unit.

6.3 Solar screens will be allowed on windows, provided the screen material and color are complimentary to the color of the Dwelling Unit.

6.4 Solar film (window tinting) must be a non-reflective type. Materials and color samples must be submitted for approval.

Section 7. Decks.

7.1 Decks may not encroach into any utility easement unless the utility companies involved have granted their written consent to such encroachment.

7.2 Decks should not be situated on a Lot if they pose a problem to the effective drainage of the Lot or a neighboring Lot.

Section 8. Swimming Pools and Spas.

8.1 No pool or spa of any type may encroach into any utility easement unless the utility companies involved have granted their written consent to such encroachment. Pool or spa decking encroachment also requires a consent agreement. Consents must be received by the ACC prior to approval.

8.2 No pool or spa shall be located nearer than twenty feet (20') to a side and rear Lot line to maintain proper drainage on the Lot. The pool or spa must meet all building line and easement restrictions on the recorded plat.

8.3 All private swimming pools and spas shall be completely enclosed by a fence pursuant to local City regulations.

8.4 Above-ground pools must meet all of the above requirements and must be maintained in excellent condition.

8.5 Pools are to be drained to the street and into the storm drain system. They are not to be connected to or drain into the City's sewage drain system. Minimum White Schedule 40 PVC pipe is to be used for pool drain.

8.6 All new pools are required to be inspected by the City of Conroe for proper water connections and drains. It shall be the sole responsibility of the owner to obtain said inspection.

8.7 Yard drains must also be of White Schedule 40 PVC pipe.

8.8 Swimming pool construction shall not adversely impact existing established drainage of the primary impacted Lot, and also any adjacent Lots. It is the responsibility of the applicant to ensure that drainage is maintained or improved during and after final installation of the swimming pool and associated decking and equipment.

8.9 All pool equipment, including but not limited to pumps, filters, heaters, cleaning tools, and related items, shall be screened from public view with appropriate landscaping or other approved materials.

Section 9. Antennas / Satellite Dish.

9.1 No satellite dish of more than one (1) meter (39.37 inches) in diameter is allowed on a Lot in McDade Estates Subdivision.

9.2 A satellite dish of one (1) meter (39.37 inches) or less in diameter is permitted, provided it complies with the following specifications:

a. An antenna or satellite dish must be located on the Lot where it is not visible from any street, common area or other Lot to the extent feasible. If it is impossible to receive signals from an area that is not visible, the receiving device may be located where it is visible so long

as it does not extend above the roof ridgeline of the Dwelling Unit or garage and is not located in the front yard of the Dwelling Unit and the side yard of a corner Lot. The ACC may require as much screening of the receiving device as is possible without interfering with the reception of the signal. An antenna or satellite dish, including its base and anchoring structure, shall not extend above the center ridge of the roof line of the Dwelling Unit located on the Lot. An antenna or satellite dish must be securely mounted to a base, so as to be able to withstand the effect of high winds or other extraordinary weather conditions; however, no guy wires or similar mounting apparatus will be allowed.

b. No advertising slogans, logos, banner, signs or any other printing or illustration whatsoever shall be permitted upon or be attached to an antenna or satellite dish. All antennas and satellite dishes must be white, black, brown or gray in color, or painted to match the Dwelling Unit.

9.3 No more than one (1) antenna or satellite dish shall be allowed per receiver device.

Section 10. Fences, Fence Extensions, Walls and Hedges.

10.1 Any fence, wall, planter or hedgerow intended for the purposes of privacy and/or security shall not be in excess of six feet (6) in height and shall be no nearer to the front property line of the Lot that it serves than the front of the Dwelling Unit located on the Lot and no closer than ten feet (10') to the side street lines. All fences and walls shall be constructed of ornamental iron or aluminum, wood, masonry or synthetic materials, as established by the ACC. All fences must be maintained in good condition by the Lot owner, and in accordance with the additional guidelines outlined below in this section.

10.2 All proposed fences must be approved by the ACC.

10.3 Any painting, staining, or varnishing of the exterior of a fence must be approved by the ACC.

10.4 All corner fences, those visible from the street on a permanent basis, and fences which face a restricted reserve must be installed picket side out from the Lot (posts and supports facing interior of Lot).

10.5 Replacement or repairs of fences, walls or hedges must be made with similar materials and construction details as used in original fence, wall or hedge. Replacement with any other material must be approved by the ACC.

10.6 No electric wire or temporary fence type construction will be permitted on any Lot.

10.7 Fences must be maintained and repaired as deemed necessary by the ACC.

Section 11. Exterior Lighting.

11.1 Exterior floodlights must be approved by the ACC prior to installation, and, if approved, must be aimed so as not to shine onto a neighboring property.

11.2 Exterior lights must be clear, and must not negatively affect overall aesthetic appeal.

Section 12. Wind Turbines.

12.1 Wind turbine vents must be mounted in the rear portion of the roof so that they are not visible from the front.

12.2 The wind turbine vents must be a color which will blend with the shingle color, or be painted to match the shingle color.

Section 13. Gates & Gate Covers.

13.1 All wooden gates shall have a full wooden panel to match the existing fence.

13.2 No chicken wire, electric wire, or lattice shall be allowed on any gates or fence.

Section 14. Landscaping.

14.1 Landscaping (defined as living plants, trees, shrubs, flowers, etc., and utilization of nonliving material necessary for growth, *e.g.*, bark, mulch, etc.) does not generally require ACC approval. However, the ACC is specifically empowered by the Declarations to determine what is visually objectionable and not in harmony with the surrounding neighborhood with regard to landscaping.

14.2 All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the owner or occupant of each Lot shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of material and equipment except for normal residential requirements or incidental to construction of improvement on the Lot. The owner or occupant of the Lot shall not use the Lot as a dumping ground for rubbish, trash, garbage or other waste of any kind.

14.3 The installation of landscaping or structures must not interfere with the existing flow of drainage from adjacent areas or cause any surface water drainage to flow onto or impound water on an adjacent Lot.

14.4 All new homes shall have sod installed in the entire front yard and side yards.

Section 15. Awnings

Awnings are permitted on the side and rear windows of a Dwelling Unit and must be of the same color as or compliment the Dwelling Unit. Awnings used as patio covers must be of the same color as those on the Dwelling Unit. In all cases, colors must match or compliment the predominant color of the Dwelling Unit. Once installed, awnings are to be maintained in

excellent condition at all times. Canvas awnings are allowed and must be maintained in “like new” condition.

Section 16. Window Air Conditioners.

Window air conditioners which are visible from the street are not permitted on the Dwelling Unit.

Section 17. Solar Energy Devices.

17.1 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.

17.2 Such Devices may only be installed with advance written approval of the ACC subject to these guidelines.

17.3 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.

17.4 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.

17.5 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 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 publically available modeling tool provided by the National Renewable Energy Laboratory [www.nrel.gov] or equivalent entity).

17.6 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.

17.7 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.

17.8 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.

17.9 All Devices must be maintained in good repair. Unused or inoperable Devices must be removed.

Section 18. Rainwater Recovery Systems.

18.1 Rainwater Recovery Systems may be installed without advance written approval of the ACC subject to these guidelines.

18.2 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.

18.3 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.

18.4 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 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.

18.5 Overflow lines from the Systems must not be directed onto or adversely affect adjacent properties or common areas.

18.6 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.

18.7 Harvested water must be used and not allowed to become stagnant or a threat to health.

18.8 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.

Section 19. Display of Certain Religious Items.

19.1 A property owner or resident may display or attach one or more religious items to each or any entry to their dwelling. Such items may include anything related to any faith that is motivated by the resident's sincere religious belief or tradition.

19.2 Individually or in combination with each other, the items at any entry may not exceed 25 square inches total in size.

19.3 The items may only be displayed on or attached to the entry door or frame and may not extend beyond the outside edge of the door frame.

19.4 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; or
- c. contain language, graphics or any display that is patently offensive to a passerby.

19.5 Approval from the ACC is not required for displaying religious items in compliance with these guidelines.

19.6 As provided by Section 202.018 of the TEXAS PROPERTY CODE, the Association may remove any items displayed in violation of these guidelines.

Section 20. Display of Flags.

20.1 These Guidelines apply to the display of "Permitted Flags" which are:

- a. the flag of the United States; and
- b. the flag of the State of Texas; and
- c. the official flag of any branch of the United States armed forces.

20.2 These Guidelines do not apply to any flags other than the Permitted Flags listed in the above Section 20.1 including, but not limited to:

- a. flags for schools, sports teams, businesses or foreign countries; or

- b. flags with marketing, seasonal, historical, commemorative, nautical, political or religious themes; or
- c. historical versions of flags permitted in section 1 above.

20.3 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.

20.4 Permitted Flags must be displayed in a respectful manner in accordance with the current relevant federal, state or military code.

20.5 Permitted Flags must be displayed from a pole attached to a structure or tree, 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.

20.6 Permitted Flags shall be no larger than three foot (3') by five foot (5') in size.

20.7 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.

20.8 Flagpoles must be constructed of permanent, long-lasting materials with an appropriate finish that is harmonious with the dwelling.

20.9 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.

20.10 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.

20.11 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

- e. 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).

20.12 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. 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.

20.13 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.

20.14. 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.

20.15 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.

Declarations of Restrictions, Covenants and Conditions of McDade Estates Subdivision

It is the Lot owner's responsibility to ensure that the improvements made to his/her Lot comply with all Restrictions, Covenants and Restrictions of McDade Estates Subdivision, Sections I, II and III, these ACC Guidelines and Regulations, and any amendments thereto. Any failure of the Lot owner to comply may result in the filing of a Certificate of Non-Compliance in the Real Property Records of Montgomery County, Texas, and/or the filing of a lawsuit by the Association to enforce compliance or enjoin violations thereof.

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 *Amended Architectural Control Guidelines and Regulations* was adopted by the Board of Directors, effective as of January 2013, until such date as it may be modified, rescinded or revoked.