

**ARCHITECTURAL CONTROL GUIDELINES  
FOR  
INDIAN BEACH**

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THE STATE OF TEXAS     §  
  §  
COUNTY OF GALVESTON §

**RECITALS:**

1. In accordance with the "Restrictions, Covenants and Conditions for Indian Beach, Section One (1)" recorded in the Official Public Records of Real Property of Galveston County, Texas under Clerk's File No. 260197, as amended and supplemented, and Section 204.010 of the Texas Property Code, the Architectural Control Committee for Indian Beach (the "ACC") has the authority to promulgate, supplement and amend Architectural Control Guidelines governing proposed Improvements within the Property and modifications and additions to existing Improvements within the Property.

2. In accordance with such authority, the ACC, with the approval of the Board of Directors of Indian Beach Property Owners' Association, Inc. (the "Association"), desires to adopt Architectural Control Guidelines governing proposed Improvements within the Property and modifications and additions to existing Improvements within the Property.

NOW, THEREFORE, the ACC, with the approval of the Board of Directors of the Association, hereby adopts these Architectural Control Guidelines for Indian Beach. When effective, this instrument replaces and supersedes any and all Architectural Control Guidelines for Indian Beach, previously adopted by the ACC and/or the Board, if any.

**I.**

**DEFINITIONS**

Terms used in these Architectural Control Guidelines shall have the following meanings:

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| <b>ACC</b>         | The Architectural Control Committee of the Association.   |
| <b>Declaration</b> | The Restrictions, Covenants and Conditions for Indian Beach, Section One (1) recorded in the Official Public Records of Real Property of Galveston County, Texas under Clerk's File No. 260197; as amended and supplemented.          |
| <b>Property</b>    | Indian Beach, Section One (1), a subdivision in Galveston County, Texas according to the map or plat thereof recorded under Volume 17, Page 1 of the Map Records of Galveston County, Texas; and any other property which has been or |

may be subsequently annexed thereto and made subject to the authority of the Association.

**Improvement**

Any building, fence, wall, pier, docks, swimming pool, playground equipment, outdoor cooking, or eating facility of a permanent nature, or other structure of any kind.

Each other capitalized term used in these Architectural Control Guidelines shall have the same meaning as that set forth in the Declaration, unless otherwise indicated.

II.

OVERVIEW

The purpose of architectural review is to preserve the plan and scheme of development for the Property. The Declaration authorizes the ACC to establish Architectural Control Guidelines for the Property and requires Owners to obtain the prior written approval of the ACC for any Improvement to be constructed, placed or modified on a Lot. The prior written approval of a proposed Improvement is required to ensure that the proposed Improvement complies with the provisions of the Declaration and these Architectural Control Guidelines and that it is compatible with existing Improvements and the external design of the Property. The ACC and Board have established these Architectural Control Guidelines in accordance with the authority granted by the provisions of the Declaration and Chapter 204 of the Texas Property Code.

These Architectural Control Guidelines provide information about the type, color, and grade of exterior materials which may be used in the construction of various types of Improvements; the permissible size, height and location of Improvements; and the procedures used by the ACC in reviewing applications for proposed Improvements.

The ACC reserves the authority to review and approve or disapprove Plans for a proposed Improvement not expressly addressed in these Architectural Control Guidelines and to consider additional guidelines in the review process, whether published or not. These Architectural Control Guidelines may be amended by the ACC as it deems necessary and appropriate, subject to the approval of the Board of Directors.

A.

General Guidelines

1. **Submission.** An application for approval of a proposed Improvement must be submitted to the ACC in writing by completing the application form then in use by the ACC. Plans must be submitted with the application, as provided in the attached Plan Review Application.

- a. All document must be submitted at the same time, except applicable permits. Permits may be submitted at a later time.

- b. All documents submitted must be in a readable electronic format. No phone camera snapshots allowed.

2. **General Criteria.** The ACC or Committee Representative shall consider the following factors upon the review of each application for a proposed Improvement:

- a. The exterior materials, colors, design (elevations), size (dimensions), location and appearance, all of which must be harmonious with existing Improvements and consistent with the plan and scheme of development for the Property.
- b. Compliance with all applicable setbacks set forth in the Declaration or shown on the Plat, as well as location in relation to utility, drainage or other easements;
- c. Limitations set forth in the Declaration as to the number of Improvements which may be constructed or placed on a Lot (with ACC approval).
- d. Any other factors deemed by the ACC or Committee Representative, in its sole discretion, to be appropriate.

3. **Statutes, Ordinances and Building Codes; Disclaimer.** In addition to the provisions of the Declaration and these Architectural Control Guidelines, the ACC or Committee Representative may consider any applicable statute, ordinance, or building code. However, approval of an application shall not be construed as a warranty or representation by the ACC or the Committee Representative that the Improvement, as proposed or as constructed, complies with any or all applicable statutes, ordinances or building codes, nor shall approval be construed as a warranty or representation by the ACC or the Committee Representative of the fitness, design or adequacy of the proposed Improvement. An Improvement must comply with any applicable statute, ordinance or building code, but it is the responsibility of the applicant and the applicant's builder or contractor to assure that the Improvement, if approved by the ACC or the Committee Representative, complies with all applicable statutes, ordinances and building codes. If the provisions of these Architectural Control Guidelines are more restrictive than an applicable statute, ordinance or building code, the provisions of these Architectural Control Guidelines shall be applicable.

4. **Deviations from Approved Plans.** A deviation from approved Plans during construction requires ACC or Committee Representative approval as provided in the Declaration and these Architectural Control Guidelines; a deviation without the prior written approval of the ACC or the Committee Representative constitutes a violation and correction, modification or removal of the deviation may be required.

5. **Variances.** The Declaration grants to the ACC the authority to grant variances from compliance with any of the provisions of Article VIII of the Declaration (except for the provisions of Article VIII, Section 2, relating to single family residential construction and use, for which no variances may be granted by the ACC). A request for a variance must be submitted to the ACC in

writing and adequately set forth the particular variance requested and the facts and circumstances on which the request for the variance is based. A variance shall not be granted except by an instrument in writing signed by not less than a majority of the members of the ACC which specifies the particular variance.

**B.**

**Construction Guidelines**

1. **Construction Fencing.** Construction fencing must be six (6) feet tall, cyclone fencing with wind barrier and must be on all four (4) sides of the construction site.
2. **Construction Material.** Trash bin, port-a-john, and all construction material must be contained within the construction fencing.
3. **Maintenance.** Grounds around construction site must be maintained at all times. This means that debris must be contained, grass must be mowed and landscaping must be maintained at all times and dumpsters or trash bins must be emptied before debris begins to overflow.

**C.**

**Exterior Additions and Modifications**

1. No duplicate floor plans/elevations may be constructed within ten (10) Lots on either the same side or both sides of the street.
2. There may be no more than a total of three (3) duplicate floor plans/elevation combinations within Indian Beach.
3. Four (4) ten (10') palms must be planted on the Lot before the final inspection.

**D.**

**Inspection Guidelines and Enforcement**

1. The ACC committee members will perform biweekly construction inspections and will email any infractions to the Association's managing agent. Inspections will rotate between ACC committee members.
2. The Association's managing agent will send out infraction/violation letters and scan a copy of the letter to the ACC members.
3. If Owner/contractor does not correct infraction/violation within ten (10) days, the managing agent will refer the matter to the Association's managing agent for enforcement.

4. The Association's managing agent will supply to the ACC a monthly report on status of all infractions and if any have been referred to the attorney.

5. The Association's managing agent will send a scan copy of attorney letters to ACC members.

6. Final approval of deposit refunds and potential fines will be approved by the ACC.

7. Any violation that is not in compliance with the provisions of these Architectural Control Guidelines will be considered a violation of the Dedicatory Instruments (as this term is defined by the Texas Property Code) governing the Property. After proper notice, the Association shall have the authority to send demand letters and/or levy fines for any violations of these Architectural Control Guidelines and/or enforce these Architectural Control Guidelines by the initiation of legal proceedings seeking injunctive relief and/or damages, attorney's fees, costs of courts, and all other remedies, at law or equity, to which the Association may be entitled.

I hereby certify that I am the Secretary of the Board and these Architectural Control Guidelines were approved as set forth above and now appears in the books and records of the Association.

TO CERTIFY which witness my hand this the 7 day of SEPT, 2018.

INDIAN BEACH PROPERTY OWNERS' ASSOCIATION, INC.

By Carl A. Herman

Printed: CARL A. HERMAN

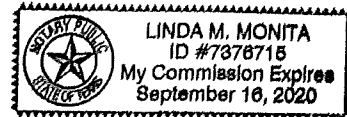
Its: Secretary

THE STATE OF TEXAS           §  
  §  
COUNTY OF GALVESTON       §

Carl A. Herman BEFORE ME, the undersigned notary public, on this day personally appeared \_\_\_\_\_ of Indian Beach Property Owners' Association, Inc., known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that he/she executed the same for the purpose and in the capacity herein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 7 day of September  
2018, to certify which witness my hand and official seal.

Linda M. Monita  
Notary Public in and for the State of Texas



## FILED AND RECORDED

Instrument Number: 2018054390

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I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in cursive script that reads "Dwight D. Sullivan".

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Dwight D. Sullivan, County Clerk  
Galveston County, Texas

**DO NOT DESTROY** - *Warning, this document is part of the Official Public Record.*