

**CONSOLIDATED, RESTATED AND AMENDED**  
**RESERVATIONS, RESTRICTIONS AND COVENANTS**  
**FOR CAPE ROYALE SUBDIVISION,**  
**SAN JACINTO COUNTY, TEXAS**

Adopted April, 2022

**CONSOLIDATED, RESTATED AND AMENDED RESERVATIONS, RESTRICTIONS AND COVENANTS  
FOR CAPE ROYALE SUBDIVISION, SAN JACINTO COUNTY, TEXAS**

WHEREAS, MITCHELL & MITCHELL LAND DEVELOPMENT CO., a Texas corporation (referred to herein as "Developer"), which at the relevant times was the owner of all the real property situated in San Jacinto County, Texas, containing what has been platted and restricted as the Cape Royale Subdivision (referred to herein as "Subdivision") as reflected in the plats and restrictions filed of record in the office of the County Clerk of San Jacinto as listed, and

Section	Original Restrictions Record	Original Plat Record	Replat Record	Texas Property Code Chapter 211 Restriction Amendment Election
Forest Cove	Vol. 112, Page 39, et seq.	Vol. 110, Page 209	Vol. 114, Page 384	Adopting Section - Document 20187549, Page 37891, et seq.
Harbour Point Condominiums	Vol. A, Page 20, et seq.	Vol. 107, Page 489		Adopting Section - Document 20187544, Page 37866, et seq.
Harbour Point Estates 1	Vol. 240, Page 360 et seq.	Vol. 107, Page 489		Adopting Section - Document 20187543, Page 37861 et seq.
Harbour Point Estates 2	Vol. 156, Page 737 et seq.	Vol. 152, Page 616		Non-Adopting Section
Harbour Villas 1	Vol. 20187721, Page 38653 et seq.	Vol. 122, Page 144	Vol. 4, Page 34	Townhome covenants are non-adopting; considered an adopting section through Harbour Point Estates 1
Harbour Villas 2			Vol. 7, Page 51	Townhome covenants are non-adopting; considered an adopting section through Harbour Point Estates 1
Imperial Estates 1	Vol. 243, Page 916 et seq.	Vol. 6, Page 51		Adopting Section - Document 20187542, Page 37856 et seq.
Imperial Estates 2	Vol. 127, Page 5 et seq.	Vol. 126, Page 800	Drainage easements Vol. 249, Page 296 et seq.	Adopting Section - Document 20187540, Page 37846 et seq.
Imperial Point	Vol. 119, Page 68 et seq. Amend 1979 Vol. 185, Page 130 et seq. Amend 2017 – Document 20170569, Page 2929 et seq.	Vol. 118, Page 504	Vol. 130, Page 172	Non-Adopting Section
Kings Point	Vol. 175, Page 85 et seq.	Vol. 8, Page 50		Adopting Section - Document 20187541, Page 37851 et seq.
Kings Ridge	Vol. 122, Page 81 et seq	Vol. 121, Page 375		Adopting Section - Document 20187548, Page 37886 et seq.
Kings Ridge 2	Vol. 207, Page 587 et seq.	Vol. 6, Page 34		Adopting Section - Document 20187539, Page 37841 et seq.

Kings Ridge Cove	Vol. 82, Page 934 et seq. Amend 2019 – Document 20194567, Page 22799 et seq.	Vol. 81, Page 531		Adopting Section - Document 20187538, Page 37836 et seq.
Pine Harbour	Vol. 115, Page 172 et seq.	Vol. 114, Page 385		Adopting Section - Document 20187547, Page 37881 et seq.
Reserves I	Vol. 247, Page 713 et seq. Amend 2016 Document 20191437, Page 6899 et seq.	Vol. 247, Page 176		Non-Adopting Section
Reserves II	Vol. 268, Page 552 et seq.	Vol. 263, Page 525		Non-Adopting Section
Royale Greens	Vol. 116, Page 84 et seq. Amend 1969 Vol. 117, Page 101 et seq.	Vol. 115, Page 265		Adopting Section - Document 20187546, Page 37876 et seq.
Villa De Marina I, II, III, IV	Vol. 957, Page 775 et seq.; Amend Vol. 168, Page 554 et seq.; Vol. 161, Page 256 et seq.; Amend Vol. 163, Page 720 et seq.	Vol. 5, Page 11; Vol. 5, Page 15; Vol. 5, Page 19; Vol. 5, Page 18	Vol. 5, Page 38	Adopting Sections – Document 20187545, Page 37871 Document 20187537, Page 37831 Document 20187536, Page 37826

WHEREAS, pursuant to such plats and restrictions Developer did thereby adopt, establish and imposed certain restrictions, declarations, reservations, protective covenants, limitations, conditions and easements as shown on pages 2 and 3 hereof (the "Original Restrictions") for the benefit of all present and future owners of Lots in the Cape Royale Subdivision; and

WHEREAS, in order to provide greater ease of reference to such Restrictions the Cape Royale Property Owners Association, Inc., a Texas non-profit corporation (the "Association") did thereby adopt the Consolidated Deed Restrictions, recorded in Document Number 20192900 of the Official Public Records of San Jacinto County, Texas, on May 10, 2019 (the "original Consolidated Deed Restrictions"), setting forth in the single document the entirety of the restrictions, declarations, reservations, protective covenants, limitations, conditions and easements for all Adopting Sections (herein defined) of the Cape Royale Subdivision (with the exception of Harbour Point Condominiums Declaration);

NOW THEREFORE, the Association does hereby amend and restate the Original Consolidated Deed Restrictions to set out the Restrictions more clearly. Restrictions, declarations, reservations, protective covenants, limitations, conditions and easements for those Adopting Sections and those Non-Adopting Sections (herein defined) approving these Consolidated, Restated and Amended Reservations, Restrictions and Covenants for Cape Royale Subdivision, San Jacinto County, Texas (the "Consolidated Restrictions") pursuant to the terms and conditions hereinafter set forth to wit and which restrictions shall: (i) take the place of the Original Consolidated Deed Restrictions; (ii) run with the land and be binding upon all parties having or acquiring any right, title or interest in any Lot (herein defined); and (iii) inure to the benefit of each owner of a Lot.

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**Article 1**  
**Definitions**

As used in these Consolidated Restrictions, the following terms shall have the meanings set forth below:

**Adopting Sections** – “Adopting Sections” shall refer to those sections of the Cape Royale Subdivision that elected to adopt deed restriction amendment procedures utilizing Chapter 211 of the Texas Property Code as shown on page 2 and 3 hereof.

**Architectural Control Committee** – “Architectural Control Committee” and/or the “ACC” shall refer to the committee appointed by the Board of Directors and having the duties specified in Article 4.

**Assessment** – “Assessment” shall mean and refer to the mandatory assessment(s) levied against all Lots in the Subdivision to fund common expenses.

**Association** – “Association” or “POA” shall mean and refer to Cape Royale Property Owners Association, Inc., a Texas non-profit corporation, its successors, replacements, or assigns.

**Board of Directors** – “Board of Directors” or “Board” or “BOD” shall mean the governing body of the POA as provided in the Articles of Incorporation of the Association, the Bylaws of the Association, and all applicable Texas statutes.

**Common Area** – “Common Area” or “Common Area(s)” commonly referred to as “greenbelts”, restricted reserves and/or parks, shall mean all real property owned in fee or held in easement, lease or license by the Association within the Subdivision which are not a part of any Lot.

**Consolidated Restrictions** – “Consolidated Restrictions” shall mean any restrictions encumbering the Subdivision as recited herein. This Consolidated Restrictions document consolidates and restates in a single document and amends and restates in their entirety the Original Consolidated Deed Restrictions.

**Construction Information Manual** – “Construction Information Manual” commonly referred to as “CIM” contains the information needed to ensure modifications or improvements to the exterior of individual properties within Cape Royale are reviewed against requirements developed by the community prior to the initiation of construction activity.

**Lot** – “Lot” shall mean a parcel of real property defined as one Lot shown on a recorded Plat and/or any replat thereof of the Adopting Sections and any Non-Adopting Sections approving these Consolidated Restrictions, specifically including any easements or reserves.

**Member** – “Member” or “members” shall refer to the Owner(s) of a Lot(s) within the Subdivision.

**Non-Adopting Sections** – “Non-Adopting Sections” shall refer to those sections of the Cape Royale Subdivision that elected not to adopt deed restriction amendment procedures utilizing Chapter 211 of the Texas Property Code as shown on pages 2 and 3 hereof.

**Owner** – “Owner” shall mean the person, or if more than one, all persons collectively, who hold fee simple title of record to a Lot, including sellers under executory contracts of sale and excluding buyers thereunder. This definition of Owner does not include those having any interest merely as security for the performance of an obligation.

**Plat** – “Plat” shall individually and collectively refer to the maps or Plats of real property located within the Subdivision, which Plats are filed for record in the Map Records of San Jacinto County, Texas, and the Plat of any other real property that has become or may become subject to these Consolidated Restrictions and any Plat, re-plat or partial re-plat, or amendment of any of the above described Plats.

**Quorum** – A “Quorum” of Members for the annual Member meeting, or any specially called Member meeting, which the agenda includes the amendment of these Consolidated Restrictions, shall consist of a quorum of 5% the membership entitled to cast a vote, either present or by proxy, at such meeting.

**Site Plan** – “Site Plan” shall mean an architectural plan, landscape architecture document, and a detailed engineering drawing of proposed improvements to a given Lot.

**Special Restrictions** – “Special Restrictions” shall refer to those restrictions that are specific to an individual section of the Subdivision set forth in Article 8 hereof and when in conflict with these Consolidated Restrictions the Special Restrictions shall be enforced.

**Subdivision** – “Subdivision” shall mean the certain real property in San Jacinto County, Texas consisting of twenty-one platted sections described and defined in detail hereinabove as the Cape Royale Subdivision.

## Article 2 Reservations, Exceptions and Dedications

### **2.01 Applicability**

- 1) All of the reservations, restrictions and covenants herein provided for and adopted, along with the by-laws, recorded policies, rules, and regulations promulgated by the Board of Directors shall apply to each and every Lot of an Adopting Section and shall be covenants running with the land, the term of which shall be perpetual.
- 2) All of the reservations, restrictions and covenants herein provided for and adopted, along with the by-laws, recorded policies, rules, and regulations promulgated by the Board of Directors shall apply to each and every Lot in a Non-Adopting Section that approves these Consolidated Restrictions. Approval of these Consolidated Restrictions shall be in accordance with the voting requirements of the individual restrictions and covenants of each Non-Adopting Section. To the extent that any deed restriction or covenant set forth hereinafter is inconsistent and/or conflict with any of the internal deed restrictions and covenants of the Non-Adopting Sections approving these Consolidated Restrictions, those internal deed restrictions and covenants are paramount; and such shall be covenants running with the land, the term of which shall be perpetual.
- 3) In the event any Non-Adopting Section fails to approve these Consolidated Restrictions, the actions of said Non-Adopting Section do not affect the adoption of this document by any other Adopting or Non-Adopting Section. The individual deed restrictions and covenants within the Non-Adopting Sections remain and are unaffected by this instrument.

**2.02 Dedications** The streets, roads and lanes shown on the Plats are dedicated to the restricted use of Owners and their authorized tenants, guests, and contractors. The utility easements shown thereon are dedicated subject to the reservations hereinafter set forth. Lanes are for the principal purpose of providing ingress to and egress from the Lots which abut them; accordingly, no cars or other vehicles shall be permitted to be parked or to stand nor shall other obstructions of any kind be permitted in such lanes.

**2.03 Reservations - Utility Easements:** An easement is expressly reserved in, on, over, under and through those portions of the Lots as shown on the Plats as "Utility Easements" or "Sewer Easements", for the purpose of installing, repairing and maintaining electric power, water, sewerage, gas, telephone and any other utility service the POA may find necessary or proper. There is also reserved and dedicated for the use of the POA and any public or private utility company an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to and above all dedicated utility easements as shown on the Plats.

- 1) The utility easements shown on the Plats are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in San Jacinto County, Texas, as well as for the benefit of the POA and may be used by any public or private utility company entering into and upon said property for the purposes aforesaid.

- 2) The title conveyed to any real property in the Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, cable, internet, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the POA or utility companies upon, under, along, or across or through such public utility easements; and the right (but not the obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to the POA, its successors and assigns, or applicable public utility companies.
- 3) The right to grant easements or sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the POA.
- 4) The easements reserved and dedicated under the terms and provisions hereof and under the terms and provisions of the Subdivision Plat shall be for the general benefit of the Subdivision as herein defined and any other land owned or acquired by the POA in the vicinity thereof and shall also inure to the benefit and may be used by any public or private utility company entering into and upon said property for the purposes aforesaid.
- 5) Fences, walls, and shrubbery hedges shall be permitted on any such easements except those easements being used for underground electric and/or telephone systems, provided:
  - a) Such fences, walls and hedges do not interfere in any way with the use of such easements by any public or private utilities then utilizing or thereafter designated to utilize the same,
  - b) That the right of the Owners of such fences, walls and hedges shall at all times be and remain subordinate and inferior in every way to the right of public and private utilities; and
  - c) Neither the POA nor any public or private utilities, nor their successors or assigns, using said utility easements shall be liable for any damage (including removal and/or trimming) done by any of such parties or any of their agents or employees to the shrubbery, trees, flowers or other property of the Owner situated on the land covered by said utility easements.
  - d) No buildings or structures of any character may be erected or allowed to remain on any utility easement.
- 6) Each Owner shall be responsible for maintaining such Owner's lot in such a manner as to prevent damage to public or private utility lines or facilities located in, on, or under said Lot. Such maintenance shall include, but not by way of limitation, bulk-heading. In the event of a violation or breach of this covenant herein contained, and which violation or breach continues after fifteen (15) days written notice to the Owner of any Lot involved, setting forth the nature of such violation or breach and the specific action to be taken to remedy such violation or breach, the POA and/or any public or private utility district owning, operating or maintaining such utility lines or facilities, and their agents, shall have the right at reasonable times to enter upon the land on which such violation or breach exists and to take the actions specified in the notice to the Owner to remedy, abate and remove, at the expense of the Owner thereof, such conditions as may be reasonably necessary to protect the public or private utility lines; and the said party shall not thereby be deemed guilty in any manner of trespass for such entry, abatement or removal. The cost of such remedy or abatement shall be paid to the POA or the public or private utility district incurring the expense upon demand and if not paid within thirty (30) days thereof, shall become a lien upon the Lot affected in the same manner as a lien securing the annual maintenance assessment hereunder; provided, however, that any such lien shall be subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any Lot or Lots in the Subdivision by an Owner thereof for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of

improving such Lot or Lots. The rights and remedies provided for in this paragraph are in addition to, and not in lieu of, all other rights and remedies to enforce these Consolidated Restrictions available at law or in equity.

- 7) Easements in Favor of the Trinity River Authority of Texas - The property included in the Subdivision is subject to certain easements in favor of the Trinity River Authority of Texas (referred to herein as "Authority"), and the use of the land area contained in said easements is further subject to the approval by Authority as set out in that certain conveyance from Mitchell & Mitchell Land Development Co. to The Trinity River Authority of Texas dated January 10, 1968, recorded in Volume 107, Page 506, of the Deed Records of San Jacinto County, Texas, to which instrument and the record thereof reference is hereby made for all purposes. No improvements, including but not limited to docks and decks, may be placed in said easement without the approval of the ACC and the Authority.

### **Article 3 Use Restrictions**

The "Use Restrictions" set forth in this document shall be applicable to all Lots unless otherwise noted. In addition to and taking precedence over the aforementioned "Use Restrictions," Lots shall be subject to "Special Restrictions" set forth in Article 8 hereof as applicable.

**3.01 Authorization** In the event of default on the part of the Owner of any Lot in observing the Use Restrictions herein, and any Special Restrictions, and if such default continues after ten (10) days written notice thereof, the POA may take action to correct the default. The POA or others authorized by the POA may cut weeds and grass and may remove any thing and/or vegetation that presents an immediate hazard to the Subdivision. The POA shall not be subject to any liability for trespass, other tort, or damages in connection with or arising from such corrective action, nor in any way shall the POA or its agents be held liable for any claim for such corrective action. The defaulting Owner will be charged for the reasonable cost of such work and associated materials. The Owner agrees with the purchase of a Lot to pay such statement immediately upon receipt regardless of occupancy or leasing status. The payment of such charge is secured by the same lien which secures the annual maintenance assessment hereunder.

**3.02 Use of Lots** No Lot or improvement thereon shall be used for anything except a Single-Family Residence for single-family residential purposes. "Single Family Residence" shall mean a dwelling intended for single family residential use and used as a single residential dwelling unit. Even though a dwelling unit shares one or more walls with another dwelling unit, it is a "Single Family Residence" if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, electrical service or any other necessary functional service with any other dwelling unit. The term "residential purposes" as used herein shall be held and construed to exclude hospitals, clinics, nursing homes, licensed daycares, boarding houses, hotels, churches and all other commercial uses as all such uses of said property are hereby expressly prohibited.

**3.03 Residence Leasing** For purposes of these Consolidated Restrictions, "leasing" is defined as occupancy of a dwelling by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. No fractions or portions of any Lot or dwelling may be leased, rented, or licensed. Rental, lease, or licensing of the Lot and dwelling shall not relieve the Owner from compliance with these Consolidated Restrictions. Owners shall remain responsible for any and all fees, fines, or charges assessed against their property regardless of lease, rental or licensing status of their Lot. There shall be no rental of property under the Housing Choice Voucher

Section 8 Program within Cape Royale except in those sections approved by the Board. No property may be leased, rented, or licensed for habitation if the property has harmful levels of black mold.

**3.04 Subdividing Lots** No Lot may be subdivided; provided, however, individual Lots may be divided between abutting Owners and thereafter each Owner's resulting oversize tract shall be considered as one Lot. Nothing herein contained shall prohibit the construction of a single residence on two (2) Lots, in which case both such Lots shall be considered as one Lot for building purposes. Irrespective of the foregoing provisions of this paragraph, the maintenance fund assessment hereinafter set forth shall be and remain applicable to all Lots as originally platted. As to Lots divided between abutting Owners, the said maintenance fund assessment as to the divided Lot shall be apportioned on the basis of surface area of the portions of the divided Lot added to the adjacent Lots for the purpose of creating two oversized Lots.

- 1) There are certain easements dedicated by the Plat or by these Consolidated Restrictions that presently contain utility facilities or are designated to contain utility facilities. Adjoining Lots may not be consolidated into a composite building site where the construction would encroach upon these easements unless such easements have been abandoned by all utilities or other agencies entitled to their use.

**3.05 Buildings with Shared Walls** No residential complex that consists of twelve (12) units total, or fewer which are connected with one or more shared walls may be rebuilt if destroyed (i.e., damaged to the extent that at least two perimeter walls of a single unit require new construction), unless the complex is governed by a homeowners' association with Articles of Incorporation registered with the Secretary of State prior to January 1, 2021. No residential complex of twelve (12) or fewer units which are connected with one or more shared walls may be built as new construction in any section of the subdivision. If an existing lot(s) associated with such a destroyed complex is narrower than fifty (50) feet, then multiple lots may be combined in order to form a lot at least fifty (50) feet wide, so as to accommodate a single-family dwelling, subject to any existing easements or rights of way.

**3.06 Nuisance** No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. There shall not be anything of any sort whose activities, presence or existence in any way is noxious, dangerous, or of a nature as may diminish or destroy the enjoyment of the adjacent Owner or Subdivision.

**3.07 Temporary or Movable Structures** Temporary structures such as trailers, campers, vehicles, mobile homes, tents, shacks, garage, barn or other outbuilding will not, at any time, be used as a residence, temporary or permanent, nor shall any structure of a temporary character as described above ever be used in any way or moved onto or permitted to remain on any Lot, developed or undeveloped, except during construction of permanent structures. Overnight stay is not permitted in any of these structures. Recreational vehicles (RV) and campers are allowed on a developed Lot, with permission of the property owner for purposes of preparing/cleaning for usage for no longer than 3 days in any three (3) month period, unless authorized by the Board for humanitarian reasons. At no time will a recreational vehicle and/or camper be stored on an undeveloped Lot for any period of time.

**3.08 Walls, Fences and Other Borders** No wall, fence, or dog run shall be erected, maintained, or permitted without the prior written approval of the ACC in accordance with recorded ACC guidelines and policies as set forth in the Construction Information Manual. No structure or landscaping element shall be erected, maintained, or permitted which would obstruct the line of sight at street intersections. *Specific requirements by each section of the Subdivision can be found in Special Restrictions.*

**3.09 Off Street Parking** Licensed motorized vehicles, boats, off-road motorized vehicles, personal watercrafts, campers, and trailers must be parked:

- 1) On a driveway; OR
- 2) On a surface approved by the ACC for such purpose

A temporary exception to these rules may be granted in writing by the ACC.

**3.10 Firearms** The use or discharge of firearms in the Subdivision is expressly prohibited.

**3.11 Fireworks** The use and discharge of fireworks in the Subdivision is expressly prohibited.

**3.12 Property Maintenance** The Owner of each Lot shall, at such Owner's sole cost and expense, maintain Owner's Lot and all structures and improvements thereon in accordance with requirements set forth in this Article 3, and will keep the same in condition comparable to the condition of the majority of other Lots.

- 1) Regular cutting/trimming of grass, shrubs, and weeds is required. Blowing or otherwise disposing of cuttings and trimmings in the street, drainage areas or lake is not permitted.
- 2) No commercial equipment or materials may be stored on any lot, at any time, before or after a unit is constructed, unless it is being used in an ACC approved construction project.
- 3) Lots must be kept free of the accumulation of garbage, trash, or rubbish. Trash, garbage, or other rubbish shall be kept only in sightly, sanitary containers. Each Owner shall be responsible for disposing of his/her trash, garbage, and rubbish.
- 4) There shall be no burning of garbage, trash, rubbish, or construction material on the Lots.
- 5) All clothes lines, yard equipment, large outdoor recreation/play equipment, or storage piles shall be kept screened so as to conceal them from view of neighboring Lots, streets, or other properties. Exception to these rules may be granted by the Board in exceptional circumstances and in its sole discretion.
- 6) No abandoned or disabled vehicles, as defined by the Texas Transportation Code, may be placed on, or remain on any Lot.
- 7) No non-functioning satellite dish or antennae may remain on any Lot.

- 8) If open carports are used, no unsightly storage and/or unsightly vehicles shall be permitted therein.
- 9) Structures must be kept free of exterior mold and mildew. The exterior wall envelope and roofing of all structures must be kept in good repair.

**3.13 Animals** No animals, livestock or poultry may be raised, bred, or kept on any Lot with the following exception. Dogs, cats, or other common household pets may be kept as household pets if the conditions herein are met. They must not be kept, bred, or maintained for commercial purposes. Pets must not be allowed to roam freely within the Subdivision. Pet owners must remain in compliance with all applicable state and county laws regarding restraint of pets. Pets must not constitute a nuisance, danger, or disruption to Owners, their families, or guests. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Subdivision, or nearby property, or destructive of wildlife, that animal shall be deemed to be a deed restriction violation. If the Owner of a dangerous animal refuses to remove that animal from the Subdivision, the Association or its agents shall be authorized to request a local governmental agency with appropriate jurisdiction to take over the enforcement of this provision.

**3.14 Signs** No "For Sale" sign or "For Rent" sign or any other advertising signs or structures may be displayed in the Subdivision without prior approval of the Board. No sign containing obscenities is allowed in the Subdivision.

**3.15 Cutting of Trees** No growing trees 6" or more in diameter measured at a point 12" from the ground may be cut from any Lot without prior written approval of the ACC with the exception of trees as may be removed where necessary to the construction of improvements on the Lot. Guidelines for removal of trees under these circumstances are outlined in the recorded Construction Information Manual.

**3.16 Drainage Structures** Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

**3.17 Oil, Gas and Mineral Development** No oil or gas drilling, oil or gas development operations, oil or gas refining or treatment, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil or gas wells, or tunnels, mineral excavations or shafts be permitted on any Lot at any time while these restrictions remain in full force and effect. No derricks or other structure designed for use in boring or drilling for oil or gas shall be erected, maintained or permitted on any Lot at any time while these restrictions remain in force and effect.

## Article 4 Architectural Control Committee

**Purpose** The purpose of the Architectural Control Committee (ACC) is to review and approve or disapprove plans, to ensure for all Owners, harmony of location and harmony of external and structure design and quality with existing structures. The ACC shall have the right to approve or disapprove said plans for any just reason, including aesthetic considerations, as determined by the ACC, in its discretion. Any decision granting or denying a determination of the ACC, may, within 30 days of such decision, be appealed to the Board of Directors which has complete discretion to either affirm or overturn the ACC decision. Such an appeal shall be made in writing or by electronic written means, to the Property Manager and to the President of the Board of Directors.”

**4.01 Administration** The ACC shall be appointed by the Board. The ACC shall implement the requirements of these Consolidated Restrictions and recorded resolutions and policies of both the POA and the ACC as they relate to Architectural Control in the community.

**4.02 Authority** The ACC has the authority to promulgate and adopt rules and regulations (hereinafter known as the “Construction Information Manual”) necessary to implement these covenants, including but not limited to, an outline of design and development guidelines governing construction on Lots. The Construction Information Manual (CIM) may include submission requirements concerning the type of information, reports, plans and specifications and the like which must be submitted with any application, payment of reasonable fees for processing or reviewing the application and the guidelines governing the development of each Lot. The ACC shall have the authority to modify and amend the CIM from time to time without the consent of any Owner. The Board must approve, and record said documents. All such documents shall be available electronically to Members. Printed copies may be obtained from the POA office on request in accordance with POA policies for record production.

**4.03 Variances** Notwithstanding anything contained herein to the contrary, the ACC shall have the power and the authority to authorize variances and exceptions from the terms and provisions of any of the restrictive covenants and requirements set forth in this Article 4 as to any one or more Lots. Any variance granted by a majority of the members of the Architectural Control Committee, or the Board, must be in writing, and the person requesting the variance must file the approved, written variance with the county clerk of San Jacinto County and must return a copy of the variance evidencing such filing to the POA. The variance becomes effective only when a clerk stamped copy is delivered to the POA. If any such variances are granted no violation of the provisions of these Consolidated Restrictions shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of these restrictions for any purpose except as to the particular Lot and particular provisions hereof covered by the variance as expressly dictated in writing and recorded as public record, nor shall the granting of any variance affect in any way the Owners obligation to comply with all governmental laws and regulations affecting the Lot concerned and the Plat. The terms and provisions of this Article 4 may be enforced in the same manner as the terms and

provisions hereof are enforced pursuant to Article 3 hereof. Appeals regarding the granting of; or denial of a variance by the ACC may be submitted in writing within thirty (30) days of such decision to the Board of Directors.

**4.04 Non-Liability** Neither the ACC nor the Board shall be liable to any Owner, or any other person, for any loss, damage or injury arising out of, or in any way connected to any action or failure to act in connection with the approval or disapproval of plans and specifications, or any approval or disapproval of any request for variance including, without limitation, mistakes in judgment, negligence, malfeasance, or non-feasance. No approval or conditional approval of plans and specifications, and no publication of minimum construction standards or rules and regulations shall ever be construed as representing a warranty or guaranty that the improvements or modifications will comply with applicable building codes, legal requirements or other governmental laws or regulations, or as to any other matters relating to the health, safety, workmanship, or suitability for any purpose.

**4.05 Basic Rules:** No improvements shall be placed on any Lot until the building plans, specifications and Site Plans showing the location of such improvements on the Lot have been approved in writing by the ACC. Likewise, improvements which materially affect or change the exterior design thereof, may not be made until the plans for such improvements have been approved in writing by the ACC.

- 1) In the event the ACC disapproves of any such plans, specifications and/or Site Plans, notice of such disapproval shall be delivered in writing by mail or electronically by email addressed to the Owner to the address on file with the POA. Any such notice shall set forth the elements disapproved and the reason or reasons therefore and shall contain suggestions as to methods of curing any matters or things disapproved. Said notice shall also advise the Owner of its right to appeal the decision of the ACC to the Board of Directors.
- 2) Approval by the ACC shall be granted or withheld based upon conformity of the improvement to both the general and specific intent of this instrument, adequacy of site dimensions, structural design, quality of materials, conformity and harmony of external design and location with neighboring structures and sites and relation of finished grades and elevations to neighboring sites, and such other relevant considerations as the ACC may, in the exercise of its discretion, determine to be of significance in such determination.
- 3) If the ACC fails to approve or disapprove said plans, specifications and/or Site Plans within thirty (30) days after the same have been received by the ACC, the same will be deemed to have been approved. The application is not deemed to be officially received by the ACC until all required documentation and signatures are submitted as stated in the CIM. Incomplete application packets will be returned to the Owner without ACC approval.
- 4) These requirements for approval by the ACC as herein set out cover not only the residences to be constructed in the Subdivision, but also all piers and other structures built in the water as well as on land, and also apply to any retaining walls and any significant moving of soil in or out of the water.

- 5) All square footage requirements, location relative to the street right-of-way and all building set-back lines, and requirements for all structures which extend into the water are defined in Special Restrictions for each section of the Subdivision. Minimum building setback lines are specified on the Plats and addressed in these Consolidated Restrictions (see Special Restrictions). If discrepancy occurs between the Plat and the restrictions, the setback distance in the Plat shall control. Encroachment upon the specified setback lines with any structure is prohibited, except where granted a variance by ACC, and any such variance will be granted only where a positive contribution to the residence, site or surrounding community can be demonstrated. For the purposes of this covenant, eaves, steps and unroofed terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot.
- 6) No structure shall be occupied or used for residential or storage purposes (other than for the storage of building materials to be used in the construction and completion thereof) until the exterior thereof shall have been fully completed in accordance with the approved plans and specifications.
- 7) Each residence, once commenced, must be "dried in" within six (6) months from the date of commencement thereof. By the term "dried in" it is meant that the exterior must have the appearance of being a complete house, including all necessary windows, doors, roof, paint and trim. If any such residence is not "dried in" within six (6) months after the date on which such residence is commenced, the Owner of same hereby gives the ACC or its representative or agent the right and authority to enter the Lot upon which such structure is situated, and to disassemble such structure and store the building materials on the premises or elsewhere at the discretion of the ACC. The Owner or occupant of any such Lot agrees, by the purchase or occupancy thereof, that the ACC shall not be liable in trespass or otherwise in entering upon said Lot and dis-assembling any such structure.
- 8) No building or structure shall be occupied as a residence unless all plumbing fixtures are connected to the established sewerage system, and electrical service has been connected. Each Owner agrees to pay the connection charge imposed by the municipal utility district, electric utility company or other governmental authority providing water, sewer and electrical service in the Subdivision.

**Article 5**  
**Cape Royale Property Owners Association, Inc.**  
**Membership and Maintenance Assessments**

**5.01 Association Membership** All purchasers of a Lot or Lots shall automatically become Members of the POA and subject to its bylaws, rules, regulations, policies and assessment charges and liens.

**5.02 Maintenance Assessment** Each Lot shall be subject to an annual maintenance assessment of \$450.05 as of 2022, per Lot to be paid by the Owner of each Lot. The same to be secured by a lien upon said Lot. Said maintenance assessment to be payable annually to the POA, as directed by the Board. Further, the annual maintenance assessment may be increased each year by the Board by a percentage increase equal to the percentage increase in the Consumer Price Index – All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the Assessment is being made; should the U.S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index – All Items the Board shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items.

**5.03 Assessment Exemption** The following properties are exempt from payment of annual maintenance assessments: all Common Areas; any property dedicated to and accepted by any governmental authority or public utility. The Board reserves the right at all times, in its own judgment and discretion, to exempt any Lot from the annual maintenance assessments, or to adjust or alter the annual maintenance assessments, when this is deemed to be in the best interests of the Subdivision, excluding therefrom Owner annual maintenance assessments.

**5.04 Maintenance Fund** Funds arising from such annual maintenance assessments may be applied, so far as sufficient, toward the payment of maintenance or improvement expenses incurred for any or all of the following purposes: lighting, streets, street signs, sidewalks, paths, parks, parkways, esplanades, areas between curbs and sidewalks, swimming pools, clubhouse facilities, ramps, boat landings, boat basins, and other similar recreational facilities, collecting and disposing of garbage, ashes, rubbish, and the like, employing security personnel, providing fire protection, caring for vacant Lots, collecting of annual maintenance assessments, enforcement of restrictions and doing any other things necessary or desirable in the opinion of the Board to keep the property neat and in good order, or which it considers of general benefit to the Owners or occupants of the Subdivision, it being understood that the judgment of the Board in the expenditure of said fund shall be final so long as such judgment is exercised in good faith.

**5.05 Subordination of Lien to Mortgages** In order to secure payment of annual maintenance assessments and other assessments and charges herein (including fines), a lien shall be and is hereby reserved in the deed from the seller to the purchaser of each Lot or portion thereof, which lien shall be enforceable through appropriate judicial proceedings by the POA. Such lien shall be subordinate to the lien of any first mortgage, and to the liens of any bank, insurance company or institutional lender which lends money for the purchase, construction, improvement and/or permanent financing of improvement on any Lot; however, such lien is superior to all other liens.

## Article 6 Common Areas

**6.01 Park and Recreational Areas:** All Owners, members of their families and their guests, shall have the right of ingress and egress to the lake through the park areas as shown on the plat of the Subdivision. All parks, lakes and beach improvements thereon shall be available for use by Owners, their families, and guests at their own risk. Nothing herein contained shall be construed as dedicating for park use the reserve, identified as "Park" shown on the Plat, to the general public or to anyone other than Owners.

**6.02 Special Tracts:** The following table contains the special tracts in the various sections that shall not be used for other than residential or recreational purposes.

Section	Block	Tract	Remarks
Forest Cove		Reserve "A"	Used primarily for recreational purposes
Pine Harbour		Reserve Tracts "A" to "I" inclusive.	Used primarily for recreational purposes
Royale Greens		Reserve Tracts "A" to "G" inclusive.	Used primarily for recreational purposes

## Article 7 General Provisions

**7.01 Amendment Procedure** Adopting Section Owners shall have the right at any time hereafter to amend these Consolidated Restrictions by a majority of votes cast by Owners, Adopting and Non-Adopting, at a special or annual meeting at which a Quorum is had, voting in favor of such amendment to any or all of the Consolidated Restrictions. Amendment of these Consolidated Restrictions by the Non-Adopting Sections shall be based on the voting requirements of the individual restrictions and covenants of each Non-Adopting Section. Each Member who is eligible to vote being entitled to one (1) vote for each Lot. For purpose of this section, the approval of multiple Owners of a Lot will be reflected by the signature of any one Owner of such Lot. The amendment is finalized by filing of a recorded instrument executed by the Association or its legal representative, successors or assigns.

**7.02 Amendment Methods** The Association shall be entitled to use any combination of the following methods to obtain approval of the Owners via the amendment procedure stated in 7.01 for an amendment to these Consolidated Restrictions:

- 1) By written ballot mailed through USPS, or electronic ballot (if same is established by the Board), that states the explicit language of the proposed amendment and specifies the date by which a written or electronic ballot must be received to be counted.

- 2) At a meeting of the Association, if written notice of the meeting is given to all Owners no earlier than sixty (60) days and no later than ten (10) days prior to the date of such meeting and states the purpose and date of such meeting. This notice is to be delivered to each Owner either by hand, sent via regular first-class mail to each such Owner's last known mailing address, as reflected in the Association's records, or via email to such Owner's email address as reflected in the Association's records.
- 3) Signed Consent.
- 4) By any other method permitted under this document or applicable law.

*"Special Restrictions" as described in Article #8 may be amended following any combination of the above methods.*

**7.03 Covenants Running with the Land:** All of the restrictions, covenants and conditions herein provided for and adopted shall apply to each and every Lot and shall be covenants running with the land. In the event of any violation or attempted violation of any of the provisions herein, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. The Board has the authority to promulgate and adopt policies, rules, and regulations to enforce these deed restrictions and to issue policies, rules and regulations that provide for the safety and well-being of individuals and property within the Subdivision. The Board, or a property management representative acting on behalf of the Board, has the power to require repairs for the damage of any property and to issue fines in accordance with stated policies, including interest, against any Owner for violations by the Owner the Owner's guests, invitees, renters, lessees, or licensees, and any unpaid fines/interest shall become a lien on the property of the Owner. With regard to any violation deemed to have been caused by an Owner, Owner's guest, invitee, renter, lessee or licensee of these restrictions, covenants, and conditions, or any Bylaws, rules, regulations or policies, said Owner shall be liable for all legal fees and court costs incurred by the Board of Directors acting on behalf of the Property Owners Association. Notices of deed restriction violations, fines, late payments, interest and maintenance assessment may be sent, to the greatest extent allowable by law, by electronic means.

While the POA has the right to seek legal action to enforce these restrictions, it does not have the sole responsibility for enforcement, and the exercise of the POA's discretion to not take legal action to enforce an alleged deed restriction violation shall create no cause of action by any Owner against the POA. The decision to pursue enforcement action in any particular case shall be left to the Board's sole discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- 1) The Association's position is not strong enough to justify taking any or further action.

- 2) Although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources.
- 3) That it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.
- 4) Such decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.
- 5) Notwithstanding anything contained herein to the contrary, no Owner shall have the right to enforce the lien rights retained herein in favor of the Association and/or other rights, regarding annual maintenance assessments, retained by the Association.

**7.04 Partial Invalidity:** In the event any portion of these restrictions, covenants and conditions herein shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other restriction, covenant or condition hereof, which was not thereby held invalid; and such provisions, including these Consolidated Restrictions, shall remain in full force and effect, binding in accordance with their terms.

**7.05 Effect of Violations on Mortgagees** No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

**7.06 Restrictions imposed on Unrestricted Plats** The POA reserves the right at any time, and from time to time, hereafter to promulgate and impose restrictions (as well as vary and amend such restrictions) as to all or any portion of the unrestricted areas of the Subdivision identified on the aforesaid Plats. Any such action shall not, in order to be fully binding, require the joinder of any other person, whether such person be an Owner, a lien hold, a mortgagee, a deed of trust beneficiary or any other person.

**7.07 All sections and paragraph headings** used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants or conditions herein contained.

## Article 8

**Special Restrictions for Adopting Sections. Non-Adopting Sections Special Restrictions are in the original documents.**

In addition to and taking precedence over the aforementioned "Use Restrictions," the following "Special Restrictions" are applicable.

**8.01 Required Minimum Living Areas**

**Table I – Required Minimum Living Area**

Section	Block	Lot or Reserve #	Area (sq. ft.) Min/Max
Forest Cove	001	022 to 051	1000
Forest Cove	001	All Others	800
Harbour Point Condos		All	500
Harbour Point Estates 1		All Lake Frontage	1000
Harbour Point Estates 1		All Non-Lake Frontage	800
Imperial Estates 1		All	1200
Imperial Estates 2		All	1800
Kings Point		All	1800
Kings Ridge		All	1000
Kings Ridge 2		All	1000
Kings Ridge Cove		All	1800
Pine Harbour	006	20 to 22; 34 to 36; 41 to 53; 65 to 74; 79 to 81; 101 to 103	1000
Pine Harbour		All Others	800
Royale Greens	005	1 to 31; 69; 73 to 82	1000
Royale Greens		All Others	800
Villa De Marinas I, II, III & IV		All	800

**8.02 Structures Extending into the Water** shall meet the following requirements:

- 1) Structures shall not extend into the water more than "AA" feet (as described below). ACC may grant exceptions because of shallow water.
- 2) No part of any structure shall be closer to any projected side property line than "BB" feet (as described below).
- 3) No such structures shall extend more than "CC" feet parallel to the water's edge (as described below).

**Table II – Structures in Water**

Section	Block	Lot or Tract #	"AA" Feet	"BB" Feet	"CC" Feet
Forest Cove	001	22, 23, 43 to 51	15	10	25
Forest Cove	001	All Others	25	10	25
Harbour Point Es- tates 1			N/A	N/A	N/A
Imperial Estates I			N/A	N/A	N/A
Imperial Estates 2		All	25	10	25
Kings Point		All	30	10	25
Kings Ridge			N/A	N/A	N/A
Kings Ridge II			N/A	N/A	N/A
Kings Ridge Cove		All	25	10	25
Pine Harbour	006	20 to 22; 34 to 36; 41 to 45; 67 to 74; 79 to 81; 97; 98; 101 to 103	15	10	25
Pine Harbour		All Others	25	20	25
Royale Greens	005	25 to 30; 69; 73 to 75	15	10	25
Royale Greens		All Others	25	10	25
Villa De Marina I, II, III & IV		All	N/A	N/A	N/A

**8.03 Building Set Back Lines:** Structures may not be any closer to the street, adjacent property, utility easements or water than as specified below unless approved by the ACC.

**Table III - Building Set Back Lines**

Section	Block	Lot	Front (feet)	Sides (feet)	Rear (feet)	Water (feet)
Forest Cove	All	All	20	5		N/A
Harbour Point Estates 1			(2)	(2)	(2)	(2)
Imperial Estates 1	All	All	20	5		N/A
Imperial Estates 2	All	All	25	5		N/A
Kings Point	001	12 thru 58	25	5	Sewer Easement	N/A
Kings Point	001	11 thru 59	25	10	Sewer Easement	N/A
Kings Point	001	All others	25	10	20	N/A
Kings Ridge			20	5		N/A
Kings Ridge II			20	5		N/A
Kings Ridge Cove		All	(1)	5		N/A
Pine Harbour	All	All	20	5		N/A
Royale Greens	All	All	20	5		N/A
Villa De Marinas I, II, III & IV	All	All	20	(3)		N/A

- (1) Kings Ridge Cove – Front – nearer 25 ft. to any 50-foot wide street; or nearer than 10 feet to any 25-foot wide street  
 (2) Harbour Point Estates 1– See individual Plats  
 (3) Villa De Marinas – See individual Plats

**8.04 Fence/Wall/Hedge Height and Location****Table IV – Fence/Wall/Hedge Height and Location**

Section	Lot	Distance/Height From Front Street		Distance/Height From Side Street		Distance/Height From Water Front		Max Height	Remarks
		Front Street	Height	Side Street	Height	Water Front	Height		
Forest Cove	All	30	3	25	3	30	3		
Harbour Point Estates 1		N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Imperial Es- tates 1	All	30	3	25	3			7	
Imperial Es- tates 2	All	30	3	25	3			7	
Kings Point	All	30	3	25	3			6	Front 90% open and decorative – chain link prohib- ited
Kings Ridge	All	30	3	25	3			7	
Kings Ridge II	All	30	3	25	3			7	
Kings Ridge Cove	All	30	3	25	3			6	Front 90% open and decorative
Pine Harbour	All	30	3	25	3			7	
Royale Greens	All	30	3	25	3			7	
Villa De Ma- rina I, II, III & IV	All	20	3	5	3				Fence/ wall/ Hedge
Villa De Ma- rina I, II, III & IV	All	20	7	5	7				Patio enclosure only

**8.05 Special Slab, Garage and Driveway Provisions**

- 1) Imperial Estates II – all Lots shall have a concrete driveway that extends from the road to the residence.
- 2) Kings Point – all Lots shall include storage with direct driveway access for at least two (2) automobiles. Storage shall be an enclosed garage or approved carport structure.
- 3) Kings Ridge Cove – all residences shall have a concrete slab, concrete driveway and a garage. Carports with an opening toward the street are not permitted. Any Lot with a residence that is less than 1800 square feet total living area, and does not have a concrete slab, a concrete driveway, or a garage; or has a carport with the opening toward the street; and is in existence at the time of the amendment approval (July 2019), is permanently grandfathered to the original.

**8.06 Short-Term Rentals**

- 1) Harbour Point Condominiums (as stated in “Condominium Declaration for Harbour Point Condominiums”) – Nothing in this Declaration shall prevent the Co-Owner from leasing or renting out the Apartment provided that it is not for transient or hotel purposes, is for a period of at least thirty (30) days and is subject to the Council’s Governing Instruments and Rules.

**END OF DOCUMENT**

Filed for Record in:  
San Jacinto County

On: Apr 26, 2022 at 01:29P

As a  
Recording

Document Number: 20222949

Amount 169.00

Receipt Number - 52982

By:  
Auber United

STATE OF TEXAS  
COUNTY OF SAN JACINTO  
I, Dawn Wright hereby certify that this instrument was filed in number sequence on the date and time hereon by me, and was duly recorded in the OFFICIAL PUBLIC RECORDS of San Jacinto County, Texas as stamped hereon by me on

Apr 26, 2022

Dawn Wright, County Clerk  
San Jacinto County, Texas