

**Long Canyon Phase II & III Homeowners Association, Inc.**

**2016 Rules of the Architectural Control Committee  
([www.longcanyon.org](http://www.longcanyon.org))**

**Effective April 15, 2016**

## Preface

Our subdivision's rules and regulations are designed to balance and protect both private-property and community values. The Long Canyon Phase II & III Homeowners Association, Inc. (hereinafter, HOA, or Association) was established to govern certain activities within this neighborhood to achieve these goals, for the benefit of all property owners, hereinafter collectively referred to as "owners."

These Rules support the Declaration of Covenants, Conditions, and Restrictions (DCCRs) for the HOA. They have been recommended by the HOA's Architectural Control Committee (hereinafter, the ACC) and subsequently adopted by the Board of Directors (hereinafter, Board) of the HOA at a duly noticed meeting held on March 16, 2016. Each property owner has a responsibility for abiding by these Rules. Current versions of the documents are available on the website ([www.longcanyon.org](http://www.longcanyon.org)).

Long Canyon is located just outside of the Austin city limits in what is called the City's extra-territorial jurisdiction (ETJ), but Long Canyon has been annexed for "limited purposes" by the City of Austin. This means that its properties fall under the City's rules for zoning and development rather than under Travis County rules, although County rules for other activities and purposes apply. Most projects, large and small, will require a building permit from the City of Austin. The City's requirements are in addition to the construction requirements contained in the ACC Rules and the DCCRs. The City and County rules form a set of minimum restrictions, but they do not take precedence over all HOA regulations. By law, properly established and recorded HOA regulations, such as these ACC Rules, that are more restrictive than the City or County regulations apply in lieu of less restrictive City or County ones.

The effective date of this current document is April 15, 2016. The process for amending these Rules, which requires approval by a majority of the Board of the Association, is described herein. The requirements in these ACC Rules and any future amendments must be consistent with the intent of the supervening governing documents of the Association.

Numbers in brackets [ ] throughout this document designate applicable section(s) of the DCCRs for Phase II. The corresponding references for the Phase III DCCRs are not indicated but may be cross-referenced on the basis of the Phase II DCCR language.

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- A. Information That Every Long Canyon Property Owner Should Know
- B. Application for Construction Plan Review
- C. Template for Construction Deposit Receipt and Authorization to Proceed
- D. Certificate of Project Compliance/Non-compliance

## 1.0 THE INSTITUTIONAL FRAMEWORK OF LONG CANYON HOA

Long Canyon Phase II came into existence by its Plat recorded at Volume 85, Page 25B, Plat Records of Travis County, Texas. Its Declaration of Covenants, Conditions and Restrictions (hereinafter “Phase II DCCRs”) were filed on June 25, 1984. Articles of Incorporation for Long Canyon Phase II Homeowners Association, Inc. (hereinafter “HOA Phase II”) were executed and filed with the Secretary of State on August 26, 1992.

Long Canyon Phase III came into existence by its Plat recorded at Volume 97, Page 44, Plat Records of Travis County, Texas. Its Declaration of Covenants, Conditions and Restrictions (hereinafter “Phase III DCCRs”) were filed on June 13, 1996. Articles of Incorporation for Long Canyon Phase III Homeowners Association, Inc. (hereinafter “HOA Phase III”) were executed and filed on May 19, 1997.

Subsequently, on October 28, 1997, HOA Phase III approved a merger with HOA Phase II; under this agreement, HOA Phase III was dissolved and combined with Phase II, with the merged entities operating under the name HOA Phase II. Later the Articles of Incorporation were further amended by filing a name change from HOA Phase II to Long Canyon Phase II & III Homeowners Association, Inc. Phase II DCCRs and Phase III DCCRs are hereinafter collectively referred to as “DCCRs.”

These documents, together with any amendments, are available to owners and the public for downloading from the Long Canyon Phase II & III Homeowners Association Inc. community website at [www.longcanyon.org](http://www.longcanyon.org).

The goals of the DCCRs are summarized as follows in the recitals of the DCCRs:

*The property is located in the watershed of Lake Austin and as such is environmentally sensitive. Lake Austin and its watershed, its geology, ground and surface waters, soils and other natural features result in diversity in the intrinsic suitability of the Long Canyon subdivision to accommodate building. Locations exist where the natural environment is hazardous, fragile or already performing useful services and should not be disturbed, while other locations would be tolerant and suitable for the construction of single family residential structures.*

*The purpose of this Declaration is to preserve so far as is possible the natural beauty of the Property; to avoid harsh contrasts between structures and landscape; to guard against the erection of poorly designed or proportioned structures or use of unsuitable materials; to encourage and secure the erection of attractive improvements which are harmonious with their sites; to encourage freedom of individual*

*expression in the development of the land and the buildings, limited only to those protections which seem to be mutually advantageous; and in general, to enhance the environmental quality and economic value of the property.*

The charter of the Long Canyon Phases II & III Homeowners Associations' ACCs, their successors in interest [6.07 & 7.11], and the Association, as represented by its Board of Directors, is to interpret and administer the DCCRs in such a way as to accomplish the goals set forth above.

Lot owners, homeowners, and property owners are hereinafter collectively referred to as "owners," and the term "owners" shall have the same meaning as "Owners" used in the DCCRs. If no definition is provided herein for a term, said term shall take on the definition as provided in the DCCRs, Bylaws, or Articles of Incorporation for the Association.

## **2.0 OVERVIEW OF THE ACC AND THE ACC RULES**

### **2.1 Role of the ACC**

The duties of the ACC, acting as a committee of the Board, are to receive, consider, and act on all proposals, complaints, requests for determination, and construction plans, or other matters submitted pursuant to the terms of the DCCRs and the ACC Rules; and to carry out all other duties imposed on it by the HOA Articles of Incorporation, Bylaws or DCCRs. [6.09]

The ACC maintains records of its activities to foster organizational continuity and to provide the documentation needed to support precedents for administrative actions. This file includes copies of applications, plans, deposit agreements and permits, and all relevant correspondence and communication with the ACC. To the extent possible, the files are maintained in an electronic format that allows reasonable access to the information.

### **2.2 The Scope of the ACC Rules**

The following ACC Rules reflect the HOA's commitment to implement the DCCRs and provide details that supplement and are consistent with the intent of the DCCRs. These Rules address communications, general expectations, property transfers and rental, requirements for permitting of new homes and major renovations of existing homes, record keeping, and procedures to ensure that neighborhood rules are followed. The HOA will provide easily accessible communication of existing and new HOA information. The goal is to communicate to potential and existing homeowners the existence and legal

standing of the DCCRs, the ACC Rules and procedures and practices in administering them, and the Board's intent to enforce them for the benefit of all owners.

Attachment A to these ACC Rules, titled "Information That Every Long Canyon Property Owner Should Know," provides more context and additional general information that should be useful to every property owner. This information includes answers to the following questions:

- How do property owners benefit from ACC Rules?
- What specific ACC information does a property owner really need to know?
- What process should be used to seek approval of a variance to an existing ACC Rule, i.e., its application in a particular extenuating circumstance?
- How is the ACC constituted?

The ACC and Board recommend that all property owners read and comprehend the information in Attachment A.

This ACC Rules document replaces and supersedes all previous versions of the ACC Rules, and other policy statements and guidelines related to the subjects in this document, that might be in an owner's or purchaser's possession as of the effective date.

### **2.3 Amending the ACC Rules**

The ACC Rules are intended to be equitable and balanced in both their requirements and their application for all homeowners, and as such are designed to be enduring. However, they are a reflection of the interests of the entire community and also must be responsive to statutory changes, so over time and within some bounds they are subject to change on an as-warranted basis.

Either the Board of Directors, the ACC, or individual property owner(s) may initiate the process to amend the ACC Rules, but no amendment is effective until approved by resolution by a majority of the Board. The following amendment process is prescribed and must be followed:

1. Unless initiated by the Board itself, the amendment must be initiated by petition to the Board President, delineating the prospective change to the rule language and describing the rationale for the change.
2. Support of multiple homeowners for the prospective amendment is not required but if submitted, it must be evidenced by their co-signing the petition document that states the change in the language and the rationale for making the change.

3. The Board President generally will ask the ACC to assess the petitioned change and to provide an informal analysis or recommendation to be shared with the Board.
4. The President will then schedule a hearing before the entire Board as part of a posted Board meeting to consider the change request; the notice of the hearing will provide the specific language change being petitioned. In the hearing, the ACC Chair will provide the Board with an analysis of the implications of the change, if any, and will present a recommendation to the Board as to the exact new language being proposed. The petitioner(s) will be provided an opportunity to comment in support of the requested change, as will any homeowners in opposition to the change.
5. Following the hearing, the Board will consider taking action to adopt the new language in that or some subsequent meeting, at its discretion.

Like the existing rule language, the new language must be consistent with the intent of related language in the DCCRs. If the petitioned change is, in the judgment of the Board, demonstrably inconsistent with a DCCR, then the Board will not adopt the new Rule language. The Board does not have the authority to amend the DCCRs. That sort of change is reserved for the homeowners and must be approved by a supermajority of all homeowners, where voting on such a change is on the posted agenda of a meeting of the entire membership and only after proper notice of that agenda is provided to all homeowners.

Upon any modification of the ACC Rules, all owners will be notified via email and the website. Website notification shall be deemed as notification to all owners. Failure to provide either notice or these documents to any purchaser or owner shall not provide the owner or purchaser with any waiver claim or failure to notify claim, nor shall it provide any limitation of the ACC Rules.

### **3.0 GENERAL NEIGHBORHOOD RULES**

Residents of Long Canyon are required to avoid behaviors that diminish the safety and quality of life in the neighborhood. These Rules are a reflection of the DCCRs, a copy of which each Owner received at time of property purchase, and are also available on the HOA website. If differences are interpreted to exist, in the judgment of the Board, between the intent of the DCCRs and the specific requirements in this section, the DCCR intent will prevail.



### **3.1 Solid Waste and Stored Materials**

All trash and garbage shall be in covered containers, and the containers must be screened from view from any neighboring property and from the street when stored. [5.08]. Waste materials cannot be accumulated, dumped, or buried anywhere on the property. [5.03, 5.04] However, composting is encouraged, provided piles are properly turned and no obnoxious odors are produced.

Any stored materials must not be visible from neighboring property or the street. [5.14]

### **3.2 Parking**

No more than two passenger vehicles, including pickup trucks that are ¾-ton or smaller in capacity, are permitted to be parked overnight on the owner's property in such a manner that they are visible from either the street or neighboring lots. Any vehicle allowed to be parked in such a manner must be regularly used. For purposes of this rule, any visible motor vehicle on a property that has not moved off-site in more than 72 consecutive hours is not considered "regularly used." [4.12] Overnight parking on streets is expressly prohibited.

Additional passenger vehicles, buses, motor homes, trailers of all types, boats of all types and their trailers, inoperable vehicles, vehicles under construction or repair, and recreational vehicles of all types that are intended by the owner to be kept on the property regularly and/or for more than 72 consecutive hours must not be parked on the property unless they are not visible from neighboring property or from the street. Overnight parking on the property is allowed only on areas designed and constructed for regular parking. Owners are encouraged to use garage space for parking and storing all vehicles and trailers at all times.

From time to time, extenuating circumstances may arise that create a temporary need for a homeowner to park a vehicle in contravention of these Rules (for example, parking on the street overnight; parking more than two passenger vehicles or some other type of vehicle in a visible location on the property for longer than 72 hours). In such situations, the owner must timely inform the ACC of the nature of the circumstance and its duration, and the ACC will then (a) make a determination whether a variance is also needed, and (b) inform the owner accordingly. If informed a variance is needed, the owner must then timely request in writing a variance from the Board, using the process described in Rule 5.2.26. Failure by the owner to take both these actions will be considered a violation, and continued parking in the future under the same circumstances without being granted a variance by the Board may also be considered a violation.

### **3.3      *Animals***

Animals are limited to domestic pets. When not on the owner's property, an owner or handler of a dog shall keep the dog on a leash. A person holding a dog on a leash or lead shall keep the dog under control at all times, including on neighborhood trails. Residents are expected to collect their animal's droppings when off their property and deposit them in their own trash receptacles.

Excessive dog barking is not permitted. [5.01]

### **3.4      *Undesirable or Dangerous Activities***

Unsanitary, unsightly, unsafe, offensive, or other activities that are potentially detrimental to the neighborhood are not permitted. This includes loud noise from speakers, bells, horns, etc. The only exception is for security devices. [5.07] No motorized vehicle of any kind may be operated in a manner that is dangerous, excessively noisy, or which creates a nuisance. [5.09]

Fireworks are expressly prohibited.

### **3.5      *Single-Family Residential Use***

The Phase II & III neighborhood is intended for single-family residential use only. Leasing or renting only a portion of the property or home to non-family members is prohibited. [3.01, 8.21] For purposes of this rule, a person who provides personal services to the resident owner in exchange in part for housing (e.g., a nanny, or live-in housekeeper) may be considered a family member.

No commercial business that is open to the general public is permitted. [5.06]

### **3.6      *Maintenance***

No building or structure upon any property within the subdivision shall be permitted to fall into disrepair [5.13]. No temporary structures such as trailers or tents, other than children's backyard camping tents from time to time, are permitted. [4.06]

### **3.7      *Safe Practices***

Hunting, trapping or discharge of firearms anywhere in the neighborhood is strictly prohibited [5.02]. No open fires are allowed. Fireworks are prohibited by Austin City

Ordinance that applies to all of Long Canyon. [5.07] Firing of paint balls, arrows, or similar projectiles is not permitted on conservation easements, trails, or roads.

Long Canyon's Firewise program ([www.firewise.org](http://www.firewise.org)), under the auspices of the National Fire Protection Association and our ESD 4 Fire Protection, advises neighbors of safety measures to help protect their homes in case of wildfires. More information on the neighborhood Firewise program, including advice on ways to mitigate potential fire hazards on individual properties, can be obtained on the HOA website.

### **3.8 Signs**

All signs must be ground-mounted and cannot exceed 3x4 feet in size. The following types of signs are allowed: [4.08]

- a) Signs which may be required by legal proceedings
- b) No more than two residential identification signs (street number and/or name of owners) for a maximum combined total face area of 144 square inches
- c) No more than one small yard sign located at or near each driveway entrance and stating that the premises are protected by a monitored security system
- d) One job-identification sign during the time of construction of any building or other improvement
- e) Signs, the nature, number, type, and location of which have been approved in advance by the ACC
- f) One "for sale" sign to advertise that the lot or property of the owner is being offered for sale is permitted. The sign must be removed when the listing expires.
- g) The display of political signs is regulated by the STATE OF TEXAS PROPERTY CODE, Chapter 202, CONSTRUCTION AND ENFORCEMENT OF RESTRICTIVE COVENANTS, Section 202.009, REGULATION OF DISPLAY OF POLITICAL SIGNS. The regulations are incorporated into ACC Rules as follows: an owner may display, on the owner's property, signs advertising political candidate(s) or ballot item prior to an election:
  - (1) On or after the 90<sup>th</sup> day before the date of the election to which the sign relates
  - (2) Signs must be removed by the tenth day after that election date.
  - (3) The owner is limited to displaying only one sign for each candidate or ballot item.

Permanent signs are prohibited that: [4.08]

- (1) Are commercial in nature
- (2) Contain roofing material, siding, paving materials, flora, balloons, streamers, lights, or any other similar building, landscaping or nonstandard decorative component
- (3) Are attached in any way to plants, a traffic control device, a light, a trailer, or any other existing structure or object
- (4) Are painted on any architectural surface (e.g. wall, house, or fence)
- (5) Threaten the public health or safety
- (6) Violate a law
- (7) Contain language, graphics, or any display that would be offensive
- (8) Are accompanied by music or other sounds or by streamers or are otherwise distracting to motorists.

Following notice to the property owner, the ACC may remove a sign displayed in violation of the restrictions. [9.06]

## **4.0 PROPERTY TRANSFERS AND RENTALS**

When property transfers occur there are certain HOA responsibilities: ensuring that any existing issues involving compliance with ACC Rules are disclosed; ensuring that outstanding financial liabilities with the property are disclosed and reconciled as part of the transactional process; and making sure that new owners and renters are provided information concerning the responsibilities of owning and residing in Long Canyon, including how to access the HOA's governing documents and regulations. The Board establishes and will revise from time to time the procedures to be followed related to property transfers and to communications with new owners and renters.

A property, in its entirety, can be rented for single family residential use. [8.21] Rental of only a portion of a property or structure, including secondary structures, is allowed only if the renter either is a member of the family that resides in the other portion of the property or is someone that provides personal services to the resident owner. If a home is rented, the owner who is the member of the Association continues to be responsible for ensuring that any renters comply with DCCRs and ACC Rules. The owner assumes the responsibility of communicating the requirements to the renter and rectifying problems should they occur. The homeowner must ensure that a copy of the ACC Rules is made available to every renter, and also must provide the current renter's contact information to the Board to facilitate neighborhood communications.

The owner of a house that is rented to non-family members for a short-term period (30 days or less) is required to obtain a permit from the appropriate government agency. At

all other times, any house rented on such a short-term basis must be occupied as a single-family residence by the owner or by the owner's long-term lessee/renter. [3.01]

For every rental of any type, the owner must include a provision in the rental agreement that the renter must comply with ACC Section 3, Neighborhood Rules. [1.15, 3.01]

## **5.0 CONSTRUCTION OF NEW HOMES AND IMPROVEMENTS TO EXISTING HOMES**

The ACC Rules in this section are intended to support the intent and purpose of the DCCRs. The intent of DCCR requirements that are interpreted as different from requirements herein prevail, regardless of whether differences arise from omissions of or differences in ACC Rules statements in this section.

Before any major construction can take place, a detailed plan for construction must be submitted in writing by the owner and approved by the ACC in writing. [3.02, 4.01] In addition to submitting plans to the ACC, the owner must document that they have informed potentially affected neighbors (those whose views or sightlines might be affected, generally within 200 feet of the property) and solicited their comments on the proposed project. This section is applicable to any construction that will or may alter the external appearance of any property as viewed from the street or neighboring properties, [1.09, 4.09] e.g., addition of or changes to structures, improvements, exterior modifications, repairs, excavations, and landscaping. [4.02] This rule is not intended to include in-kind replacement, repairs and maintenance activities, or repainting, so long as the colors are consistent with Section 5.2.11. To avoid potential misunderstanding, owners should check with the ACC representative for any significant construction project.

This section is divided into the following four parts: Initial Submission of Plans and Non-Refundable Submission Fee (Section 5.1), Review of Construction Plans (Section 5.2), Approval of Plans and Construction Deposit (Section 5.3), and Construction Phase (Section 5.4).

### **5.1 *Initial Submission of Plans and Non-Refundable Submission Fee***

Plans submitted to the ACC must be accompanied by a completed construction application form. A blank form is available on the website and also included as Attachment B. Completing this form requires notification of potentially affected neighbors. [6.12, 6.14]

The address for submitting plans:

Architectural Control Committee: Hand deliver or email to address of current ACC Chair, or by email as posted on the website and most recent newsletter. Or if by mail to:

Architectural Control Committee  
Long Canyon Phase II & III Homeowners Association, Inc.  
PO Box 29701  
Austin, TX 78755-6701

Two complete sets of site and building plans are to be submitted, one in paper form and the other in .jpeg or .pdf electronic format, at a scale appropriate for the project. For new homes and major additions, the scale for paper plans is typically 1/4 inch to 1 foot. Paper plans will not be returned to the owner. Plans must clearly show the dimensions of all walkways, driveways, property line setbacks, easements, and the exterior dimensions of all buildings. A non-refundable one-time submission fee must be included with the construction plan submission to the ACC for all new residential construction and for major additions to or remodeling of existing residences, as shown in the table below [6.19]:

**NON-REFUNDABLE PLAN SUBMISSION FEES**

<b>Area To Be Constructed</b>	<b>Project Submission Fee</b>
2,201 square feet (sf) and larger	\$500.00
1,601 to 2,200 sf	\$350.00
800 to 1,600 sf	\$200.00
Less than 800 sf	\$100.00

For minor changes to existing residences that the ACC determines do not involve more than two specifications identified in the Checklist for Plan Applications below, and that do not have concerns about the planned modifications expressed by potentially affected property owners, the project plan submission fee will be waived (see Section 5.2.26 of these Rules dealing with exceptions). Waiver of the project plan submission fee does not affect the requirement to comply with all ACC Rules or requirements.

The homeowner and the ACC will use the Checklist for Construction Plan Applications (below), as applicable, to ensure that a submission is complete. When the ACC determines that the plans are complete, they will provide the homeowner with a dated receipt for submission of the Plan and the non-refundable fee. That date will be the start of the 30-day construction plan review period.

## CHECKLIST FOR CONSTRUCTION PLAN APPLICATIONS

Plan Components	Sections in ACC Rules
Site Plan, including setbacks and driveway	5.2.1, 5.2.3, 5.2.13
Septic System	5.2.6
Floor Plans	5.2.4, 5.2.8
Elevation Plans for all Views	5.2.4, 5.2.9
Exterior Specification (Material & Color)	5.2.10
Roofing Material	5.2.11
Exterior Lighting Plan, including mailbox	5.2.14
Landscape Plan	5.2.15, 5.2.16, 5.2.17
Erosion and Sediment Control Plan	5.2.5
Survey Showing Easements & Lot Boundaries	5.2.1, 5.2.2, 5.2.3
HVAC, Tanks & Pool Equipment Locations	5.2.7
Tree Removal Plan/Tree Survey	5.2.16
Identification and Notification of Potentially Affected Neighbors	5.0
Project Submission fee	5.1
All applicable permits	5.2.27

During plan review, the ACC may request additional information or details to facilitate and complete the review process. The applicability and amount of the non-refundable project submission fee in this Rule notwithstanding, the Association retains the authority to require the project owner, at the ACC’s discretion and with Board approval, to engage a qualified third-party expert to evaluate and report on any specific potentially problematic aspect of a project, before project approval and/or before final inspection. This third-party expert must be approved by the ACC before engagement, and its cost shall be borne solely by the project owner. The owner shall provide the expert’s report to the ACC as part of its assessment of the project’s compliance with applicable regulations and as a pre-condition for initial and final approvals. The ACC, the Association, and the project owner will act in good faith with respect to third-party expert consultations, and related approvals will not be unreasonably withheld. Nothing in this rule should be construed as prohibiting the Association from engaging its own third-party expert at its sole cost to conduct these or related assessments, in addition to or in lieu of an expert engaged by the owner.

### **5.2 Review of Construction Plans**

Once the construction plan submission is complete, the ACC review process begins. This section provides the specific points included in the plan review. The ACC has up to 30 days to complete the review, after any and all requested information is received. For additional information submittals the review time will be an additional 15 days after

receipt. The ACC will also consider any supporting and opposing views expressed by the neighboring owners in the plan review.

The construction plans must allow for completion of the project no later than 18 months after approval. [1.07, 3.03]

The requirements and restrictions set forth in the following subsections are applicable to both the construction and the continuing use of the property. [4.01]

### **5.2.1 Setbacks**

The following are the minimum distances from various property boundaries to construct anything other than driveways, mailboxes, fences, or retaining walls:

<b>Applicable Property Boundary</b>	<b>Distance of Building Line from Property Boundary</b>
Front Setback – All Lots	40 feet
Side Setback on Street (Corner Lot)	30 feet
Side Setback Not on Street	10 feet
Rear Setback	25 feet

The setbacks shown in the table above prohibit encroachment of construction within the setback not only at the land surface but also in the subsurface and aurally. In addition, all City and County setback requirements, if greater than the setbacks in the table above, are to be observed. Owners are encouraged to select setbacks compatible with the existing structures on neighboring lots. The privacy of others must be protected by the appropriate design and placement of structures in order to preserve lines of sight and views from neighboring property.

Owners are encouraged to leave the setback areas required from the lot lines in as natural a state as possible, in order to provide maximum privacy and screening from neighbors and to preserve the natural beauty of the site. [4.01]

### **5.2.2 Conservation and Drainage Easements**

The submitted site plan must clearly show any conservation and drainage easements on the lot. Any clearing of, or improvements in, conservation and/or drainage easements is expressly subject to the prior approval of the ACC and will be approved only if failing to grant such approval will create overwhelming hardship on the owner. The ACC does not anticipate granting such variances. [9.03, 9.05]



### **5.2.3 Site Plan**

The submitted site plan must show the location of all structures and improvements, including all HVAC equipment, swimming pools, spas, pool equipment, walks, walls, outbuildings, external tanks, fencing, septic system layout including both drainage field(s) and holding tanks, and all other improvements. [1.07, 1.09, 1.12, 1.16, 4.01] The site plan should also clearly show all lot boundaries and any conservation and/or drainage easements if they exist on the lot. [1.08]

### **5.2.4 Floor and Elevation Plans**

The plans shall include square footage and elevations of all heated and air-conditioned living areas and the area of the structure's "footprint" including all footings and foundations, porches, balconies, decks, hardscape, and outbuildings.

The plans shall include the elevation views of all roof lines. [4.01]

### **5.2.5 Erosion and Sediment Control Plan**

All lot development, remodeling, landscaping, new-home construction or other activities causing soil disturbance during construction that could result in soil erosion and sediment delivery shall have a Construction Storm Water Erosion and Sediment Control Plan (ESCP). The ESCP shall be submitted to the ACC along with the construction plan and must be approved prior to any disturbance at the site. Information on preparing ESCPs can be obtained from the Texas Pollutant Discharge Elimination System (TPDES) GENERAL PERMIT NUMBER TXR150000 RELATING TO STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES issued by the Texas Commission on Environmental Quality (TCEQ)

[http://www.tceq.state.tx.us/assets/public/permitting/stormwater/TXR150000\\_CGP.pdf](http://www.tceq.state.tx.us/assets/public/permitting/stormwater/TXR150000_CGP.pdf).

A signed Construction Site Notice shall be posted at the site such that it is readily available for viewing by the general public.

The ESCP shall contain a detailed site map indicating the following:

- (i) Drainage patterns and approximate slopes anticipated after major grading activities
- (ii) Areas where soil disturbance will occur
- (iii) Locations of all controls and buffers, either planned or in place
- (iv) Locations where temporary or permanent stabilization practices are expected to be used
- (v) Designated point(s) on the site where vehicles will exit onto paved roads and where a stabilized construction entrance will be constructed.

Erosion and sediment controls must be designed to retain sediment on site to the extent practicable with consideration for local topography and soil type. Sediment traps and sediment basins may be used to control solids in storm water runoff. At a minimum, silt fences, rock filter berms, or equivalent sediment controls are required for all down-slope boundaries of the construction area.

Controls must be installed properly, inspected regularly, and maintained throughout the construction process. Controls must be inspected after every rainfall event that generates runoff. Sediment must be removed from sediment traps and basins no later than the time that design capacity has been reduced by 50%. For perimeter controls such as silt fences, berms, etc., the trapped sediment must be removed before it reaches 50% of the above-ground height. Inspection reports documenting compliance and maintenance must be submitted to the ACC following each inspection.

Temporary controls must be removed following completion of all soil-disturbing activities and establishment of a permanent vegetative cover or equivalent approved permanent stabilization measures.

### **5.2.6 Septic System**

Septic disposal systems must meet all regulations of all governmental public health authorities. Plans involving new or modified septic systems shall include a copy of the system design as approved by Travis County showing proposed location, size and type. A copy of the approved design is to be provided to the ACC. [1.12, 4.01] It is not necessary to completely remove all trees from the area of the septic field, and owners are encouraged to retain as many trees as possible.

### **5.2.7 HVAC Units, Pool Equipment and Tanks**

HVAC units, pool equipment and above-ground tanks (fuel, water, etc.) must meet all setback requirements from any lot line, and be completely screened from visibility from neighboring property or street by fencing and/or vegetation. [1.20] In addition, HVAC units for new house construction after April 15, 2016, must be installed no closer than 30 feet from any lot line. Buried tanks must comply with all applicable laws and ordinances, and all tanks must comply with setback requirements. [4.01]

### **5.2.8 Minimum Floor Area**

All primary residential structures shall have an air-conditioned/heated floor area of not less than 2,400 square feet, exclusive of open and closed porches, patios, garages, carports, balconies and decks. [4.01]

### **5.2.9 Height Limitations**

The limitation on building height is 30 feet above the average elevation of the proposed structure. A variance may be granted by the ACC itself for a portion of a structure up to 40 feet, provided the taller portion does not exceed 30% of the width of the residence, and provided that the additional height does not interfere with the lines of sight and views enjoyed by neighboring lots. [4.01]

### **5.2.10 Exterior Materials and Colors**

Masonite and uncoated flat or corrugated galvanized sheet metal may not be used for any exposed application. Masonry, such as stone, brick, or stucco, is encouraged.

Garish or unusual colors and color combinations will not be approved. The use of color must generally be restricted to earth tones, and will apply to both additions and/or alterations to existing structures. Detached structures should match or blend with the primary structure. [4.01] The ACC shall consider the appearance and materials used on the proposed structure in the context of nearby existing structures and natural vegetation.

### **5.2.11 Roofing Materials**

Roofs must be consistent in style with the structure, fire-resistant, and employ high-quality materials. Uncoated galvanized sheet metal, corrugated or flat, may not be used. Metal roofs must contain non-glare coatings of approved color, and roofing materials that are highly visually reflective are prohibited. [4.01] Energy conservation features, including thermally reflective roofing materials, are encouraged. [4.01] For re-roofing, provided that the existing roof conforms to these Rules, only changes in material or color must be approved by the ACC.

### **5.2.12 Commercial Trash Bins**

During periods of construction, the owner or contractor must provide a commercial metal container on-site, suitable to contain all construction debris during land clearing and construction. This container must be promptly removed when it is filled. [5.08]

### **5.2.13 Driveway**

Materials and location must be compatible with proposed structure and existing neighboring structures. Consideration must be given to drainage and runoff controls and the minimization of impervious cover. [4.01]

### **5.2.14 Exterior Lighting, Including Mailboxes**

All exterior lighting such as front porch, security, garage, mailbox lighting, and landscape lighting must be constructed and directed so as to minimize light pollution experienced by neighbors and the environment. Specifically, indirect lighting is desired.

One ACC-approved light of no more than 250 lumens may be placed on a permanent mailbox, preferably installed at or near its base for the purpose of illuminating the house number.

Landscape lighting is acceptable but should be shielded or indirect and designed to avoid light pollution to neighbors, nature, and the environment. Landscape lighting activated by motion detectors, holiday lighting, or lighting used only when people are outdoors can be greater than 200 lumens but must be directed to minimize effects on neighbors.

All exterior and remote lighting must be included in the construction plan and reviewed and approved by the ACC. Any exterior lighting not shown on a construction plan is specifically disapproved. [4.01]

### **5.2.15 Landscaping for New Construction and Renovations**

This section addresses landscaping associated with construction of new homes, additions to existing homes, and yard renovations. Routine pruning, gardening, shrub replacements, or other necessary maintenance done after initial construction or additions do not require ACC review or approval. Owners are encouraged to leave the site in as natural a state as possible. Firewise ([www.firewise.org](http://www.firewise.org)) landscaping practices are highly encouraged as is planting of native vegetation and/or xeriscaping. Large expanses of non-native grasses and any use of invasive species are discouraged.

A complete tree and shrub survey of the entire lot for new-house construction, and of the immediate area surrounding additions, must be included in the submitted construction plan. Aerial surveys can often be helpful when available. This survey must show all trees and shrubs which are to remain after construction and those to be removed during construction. Removal of live, native vegetation in any area outside the impervious cover areas must be pre-approved; the removal of all of the native vegetation (i.e., clear-cutting; denudation) from the area to be disturbed outside the impervious cover areas is specifically prohibited.

Any landscape work done at any time that would make a significant change in the appearance of the home, or that might impact the views from adjacent owners, or that involves the addition or removal of trees, shrubs, or any other visible and substantive changes, must be submitted to the ACC and approved before landscape construction can

begin. Minor alterations, such as pruning or trimming of broken or dead branches, do not need to be approved by the ACC.

The landscape plan may be submitted at the same time as the initial construction plan, but no later than occupancy of the house or 6 months after the commencement of construction, whichever comes first. Regardless of the time that the landscape plan is submitted, all improvements including landscape must be completed within 18 months from commencement of construction, which shall be deemed to be 14 days after the date of issuance of the Construction Authorization to Proceed (Attachment C) and the payment of the construction deposit.

The owner must include in the construction plan all proposed clearings of any existing vegetation from the lot, proposed final grades and drainage, any planned screens or berms, and all proposed removals of and/or additions of trees, shrubs, flower beds, planters, ground cover, trellises and fences, and other landscaping.

Large, unbroken expanses of artificial grass visible from the street or neighboring property, as determined by the ACC, are not permitted, unless expressly authorized by the Board.

Consult the ACC if there is doubt as to whether a re-landscaping project would require ACC approval. The same factors and review checklist will be used as that used for initial landscaping plans. Any substantive improvements made without the prior approval of the ACC will be considered a violation of the covenants until a plan is submitted and approved by the ACC. A serious violation could result in the ACC remediating the damages at the homeowner's expense. [4.02]

### **5.2.16 Tree Removal**

Tree removal within the footprint of a planned structure, walkways, and driveways, and as dictated by fire-protection guidelines, is necessary and reasonable. However, the ACC will generally not approve the removal of any tree outside of these areas, or the removal of any trees and shrubs providing sight barriers between neighboring houses or between structures and the street, regardless of size, without equivalent functional replacement. [4.02, 4.09] As noted in Section 5.2.15, the removal of all of the native vegetation (i.e., clear-cutting; denudation) from the area to be disturbed outside the impervious cover and fire-protection areas is specifically prohibited.

The HOA is adopting the City of Austin's municipal code for tree-removal ([www.austintexas.gov](http://www.austintexas.gov)): The City of Austin requires that new-construction plans must "demonstrate that the lot design will preserve the existing natural character of the

landscape, including the retention of trees 8 inches in diameter or larger, to the extent feasible.” Replacement trees may be required.

- A ‘heritage’ tree measures 24 inches in diameter or larger (measured 4-1/2 feet above grade), and is one of ten species listed on the City of Austin website. Removal is prohibited without both a variance and a permit from the City of Austin unless it is an imminent hazard to life or property or if it is not removed within 7 days of being damaged (exception--extensive storm damage).
- A ‘protected’ tree measures 19 inches in diameter or larger (measured 4-1/2 feet above natural grade), and a permit from the City for removal is required. The type of tree is not specified.
- A tree with a diameter of less than 19 inches (measured 4-1/2 feet above natural grade), regardless of the type of tree, does not need a city permit to be removed. However, if the tree is 8 inches or larger in diameter at a point measured 4-1/2 feet above ground level, its removal does require specific ACC approval.

### **5.2.17 Fences, Walls & Hedges**

Any fence, wall, hedge or similar structure or improvement must be included in the construction plan with respect to location, heights, and type of material and must be approved in writing by the ACC.

- No barbed wire is allowed during construction or as permanent fence on the property.
- Galvanized cyclone fences are not permitted.
- Desired fence materials include wood, rock, iron, and steel tubing.
- Support posts and framework must be facing away from streets.
- The fencing skeleton, if visible, must be facing inward toward the owner’s property.
- Black vinyl-coated fencing may be approved only if the ACC agrees with the amount and location. [4.03]

### **5.2.18 Towers and Antennas**

Nothing in this section shall be construed as intended to violate state or federal laws related to restrictions on placement of towers and antennas, including but not limited to

FCC requirements. No radio signals, television signals, or other form of electromagnetic radiation shall originate from any lot that may unreasonably interfere with the reception of any television or radio signal on any other lot. [4.04]

In order to attempt to preserve the natural beauty of the subdivision and avoid unnecessary visible towers and antennas, the following Rules are adopted:

- Owners may install such devices as needed to receive television and/or Internet service at their residence.
- The design and placement of any visible antennas or satellite dishes over 39” in diameter require ACC approval in writing prior to installation.
- Satellite dishes less than 39 inches in diameter do not require ACC approval (Fed. Telecommunications Act, 1996).
- All antennas shall be installed in a manner to minimize visibility of such equipment by neighbors.

### **5.2.19 Outbuildings**

The DCCRs require that outbuildings, defined here as larger than 10 x 12 x 8 feet high, must be similar in design and construction to the main structure. Outbuildings are interpreted to be major permanent structures such as detached garages or guest cottages that are associated with the main residence. [4.07] The ACC will seek to ensure that newly added outbuildings are consistent in design and construction with the initial structure, in compliance with all setbacks, and have a minimal visual impact on neighbors’ privacy, views, and sight-lines.

### **5.2.20 Garages**

Garages must face 45 degrees or greater angle of orientation away from street unless completely screened by vegetation and/or terrain, except for corner lots where the garage door may face the smaller of the two streets. [4.12]

### **5.2.21 Minor Structures and Decks**

Minor structures include tool storage buildings, greenhouses, and playhouses that are generally not permanent structures (i.e. no slab foundation). Minor structures (dimensions of no more than 10 x 12 feet with a maximum height of 8 feet) require ACC approval prior to installation but do not require a construction deposit. Anything larger than those dimensions is not a minor structure and may require a construction deposit.

Decks and patios of any size may be installed at ground level or elevated. They do require ACC approval and may require a construction deposit.

The ACC's interest in minor structures and decks is to ensure that they have a minimal visual impact by using colors that blend in with the background and vegetative shielding if the structure is visible from the street or by neighbors. The ACC will require the owner to inform all affected neighbors (those within 200 feet and/or in any direct sight-line), and to show proof of acceptance from each of these homeowners in the plan submittal form. Any minor structure or deck that is opposed by any potentially affected neighbor, as documented in the plan application, requires a variance issued by the Board. [4.09, 5.14]

### **5.2.22 Solar Panels – Installation Guidelines**

Energy conservation measures are encouraged. Solar panels (photovoltaic or hot water) must receive ACC approval prior to installation, and must comply with the rules and regulations under:

- Chapter 202 of the Texas Property Code
- Section 171.107 of the Texas Tax Code

Solar panels and/or equipment must meet the following requirements:

1. The panels must be installed on a roof or in a fenced back yard.
2. Collector frames, support brackets and any exposed piping must be painted to match or be compatible with the roofing material.
3. Panels that are fabricated to simulate conventional roofing material will be encouraged.
4. To the extent practicable, the equipment should be shielded from view or located to have a minimal visual impact on neighbors.
5. Solar panels and/or equipment mounted on a separate, in-ground structure (panels mounted on poles or metal frame) must not be taller than the fence line, and are not permitted unless they are suitably screened from adjacent streets or neighbors by being no taller than the fence.
6. Elevations and details of how the structure will be built and screened from view must be included in the construction plan. [4.10]



### **5.2.23 Permanent Outdoor Fireplaces and Cooking Units**

Fire pits and open fires are not permitted anywhere in the Long Canyon subdivision.  
[2.01]

Outdoor fireplaces, including chimineas, and/or cooking units will be allowed provided:

1. They are masonry or metal construction
2. They rest on a concrete or fire retardant floor
3. Chimneys are equipped with spark arrestors
4. Foliage or other flammable material is a minimum of 10 feet from the chimney and not directly above the chimney
5. Workable fire suppression equipment is readily available, and residents know how to use it

### **5.2.24 Permanent Placement of Recreation and/or Sport Equipment**

The permanent placement of recreation and/or sports equipment, including but not limited to swing sets, playscapes, gymnastic equipment, and sport courts, in the property's front yard is not permitted. The "front yard" is that portion of the lot between the primary street and any exterior walls of the front of the primary structure.

If the lot is on a corner, the primary street is the one the house faces. If the house is on a diagonal, then both streets are considered primary streets for this purpose. For corner lots, measures must be taken to shield equipment from the side street.

Plans for any of these structures that will be visible from the street or by neighbors must be approved in writing by the ACC. [4.01, 4.09]

### **5.2.25 Interpretation of Restrictions**

The Board and ACC seek to maximize the value of neighborhood property, the privacy of each owner, and the natural beauty of the property and neighborhood as a whole, while minimizing the administrative burden on each owner and the damage to the environment. The final authority on the interpretation of the DCCRs, Bylaws, and ACC Rules shall be the Board of Directors, with advice and counsel of the ACC. [6.14, 6.15]

### **5.2.26 Variances and Exceptions**

Requests for variances are to be submitted by the owner to the Board in writing. In addition to the coordination with potentially affected neighbors required in plan submittal, written statements from potentially affected neighbors, as determined by the

ACC, will be solicited by the Board. The list of all those solicited and the responses received will be included in the record along with the request for variance that is considered by the Board.

The owner has the right to present their rationale for the requested variance to the Board in a meeting where the variance request is included in a properly posted agenda.

Variances and exceptions must be approved by a majority vote of the Board. A variance or exception will be granted only where failing to do so would work an undue hardship on the owner and the variance will not be detrimental to the owner of any other property. If the DCCRs or Bylaws prohibit the requested variance, the request shall be rejected. Approval of a variance does not relieve the owner from following any or all of the other ACC Rules. [6.17]

### **5.2.27 City and County Permits**

The owner is responsible for obtaining all applicable permits and paying applicable fees required by government agencies. [6.18]

1) City permits:

- [www.austintexas.gov/department/residential-building-review](http://www.austintexas.gov/department/residential-building-review)
- 505 Barton Springs Road, Austin 78701
- 512-978-4000

2) County permits:

- [www.co.travis.tx.us](http://www.co.travis.tx.us)
- County Government Office: 700 Lavaca St., #540, Austin
- 512-854-4215

## **5.3 Approval of Plans and Construction Deposit**

Once a plan is accepted by the ACC, the project can move to the formal approval and construction deposit phase. This section describes the approval process and refundable construction deposit.

### **5.3.1 Plan Review and Approval**

The ACC will provide a dated, written response to properly submitted plans within 30 days. The written response shall indicate approval, disapproval subject to submission of additional information, or disapproval. If the submission is disapproved, the written

response will indicate what portion or portions of the submitted plan did not meet the standards of the ACC and the DCCRs. If the initial submission is disapproved, but in the opinion of the ACC could be modified so as to be approved, the submitter has 30 days to submit the necessary additional materials. [6.12]

### 5.3.2 Refundable Construction Deposit Fees

Before construction begins, the property owner will submit a refundable construction deposit payable to the HOA and delivered to the HOA Treasurer via the ACC, according to the following schedule: [8.01]

#### REFUNDABLE CONSTRUCTION DEPOSIT FEE SCHEDULE

New house construction	\$2.00 per square foot of heated/air conditioned space per approved construction plan
Major or minor remodeling (affecting house exterior appearance), or new swimming pool	\$2,500
Non-air conditioned structures (e.g., workshop, garage or greenhouse)	\$1,000
Yard improvements requiring heavy equipment (dump truck, backhoe, concrete truck, etc.), or deck	\$500
Minor structures/yard improvements requiring no heavy equipment	\$0

Attachment C is a template of the Construction Deposit Receipt and Authorization to Proceed form. The ACC will fill out the template and the owner will sign the form. When complete and the fee is provided, a copy of the agreement signed by the ACC will be returned to the owner as a receipt and authorization to proceed. If the plans change, an additional authorization to proceed will be required, and an additional refundable construction deposit may be required. [8.07]

A construction deposit is not required for any construction project that, in the determination of the ACC, is scheduled to be completed within seven calendar days, from start to finish, unless concerns about the planned modifications are expressed by neighboring property owners submitted within the plan application process (Attachment B).

## **5.4 Construction Phase**

Once the plans have been approved and the construction deposit received, the owner may begin construction. The ACC role during this phase is to monitor the process to ensure that the approved plan is being followed and that impacts to neighbors are minimized.

### **5.4.1 Practices During Construction**

The Long Canyon Mandatory Construction Practices (appended to Attachment C) must be followed by the owner and the contractors during construction.

Only one contractor sign, not larger than 3 x 4 feet, may be posted during the period of construction. [4.08]

### **5.4.2 Satisfactory Completion of Construction Project**

When the owner notifies the ACC that the project is nearing completion, including completion of landscaping and satisfactory compliance with ACC guidelines and in the case of a new home or new living areas, receipt of certificate of occupancy, the ACC will inform the owner in writing of any actions required to qualify for a Certificate of Project Compliance (Attachment D) and for return of the construction deposit. Failure of the ACC to provide written notice shall not waive or extend the deadline for completion.

Upon completion of construction the ACC will review the finished dwelling and property and, if in the opinion of the ACC all construction plans, restrictions and covenants have been complied with, the ACC will issue a Certificate of Project Compliance and notify the Treasurer to return the property owner's refundable construction deposit in part or in whole.

### **5.4.3 Unsatisfactory Outcomes of Construction Project**

The situation described in section 5.4.2 is the ideal. The following paragraphs discuss the ACC's intentions with respect to less desirable situations.

If all construction, including landscaping, is not completed within 18 months of the commencement of construction, [3.07] which shall be deemed to be 14 days after the date of issuance of the ACC construction authorization and receipt of the construction deposit, all or part of the deposit can be retained by the HOA. Alternate commencement dates for extenuating circumstances must be approved by the ACC and Board of Directors. Any additional unmet expenses for remediation can be filed as a lien on the property. [8.01, 8.05, 8.16]

All plans approved by the ACC must be complied with as approved. Any deviation from said plan must be brought into compliance, or the deviation must be approved in writing by the ACC, generally requiring the execution of another Authorization to Proceed form, and an additional construction deposit may be required. If remediation or compliance is not achieved, the owner may be charged any costs incurred by the ACC that are reasonably necessary to bring the construction project into compliance with the approved construction plan.

At its sole discretion, the HOA may retain all or part of the deposit as compensation for the non-compliance, and/or add additional fines as compensation for non-compliance.

The ACC may also contract for clean-up or other corrective work and deduct its cost from the deposit before the balance is returned to the owner in the event of one or more of the following circumstances: (1) the approved construction plans are not followed; (2) the site is not properly maintained; or (3) damage is caused to neighboring properties or to any conservation or drainage easements, and further, for any of the foregoing, the contractor or owner does not respond to the ACC's request to bring the job site or damaged neighboring property into compliance with ACC regulations. If additional expenses are incurred, these costs become the responsibility of the homeowner.

An application for an extension of time necessary to complete the project due to extenuating circumstances can be made in writing to the ACC. A new ACC authorization to proceed and new construction deposit may be required. [8.02]

## **6.0 ENFORCEMENT OF RESTRICTIONS**

The procedures described in this section exist to protect the rights of both the individual Long Canyon homeowner and the HOA in the event of a conflict. However, the goal and policy of the Board and ACC are to avoid such conflict and to convey sufficient information on rule requirements to minimize the potential for misunderstanding and conflicts. If conflicts do occur, the goal is to work for cooperative and amicable forms of dispute resolution, to the extent practicable, while maintaining the goals established when the neighborhood was founded. [8.05]

Homeowners are encouraged to discuss any concerns they personally have directly with another homeowner whose actions or inactions give rise to such concern. In the specific case of a conflict between two or more owners, the ACC and the Board will endeavor to facilitate a resolution. However, the ACC will only become involved in issues related to non-compliance with the DCCRs and the ACC Rules.

If there is a conflict that has not been resolved through informal discussion and agreed action and that conflict arises from non-compliance with the DCCRs and the ACC Rules,

the HOA intends to follow the procedures defined by the Texas Residential Property Owners Protection Act (Texas Property Owners Code, Ch. 209). The first step in that process would be for the Board to approve retaining qualified legal assistance in the matter. The steps that could be taken will be specific to the situation. The HOA intends to protect the interests of all homeowners under applicable state law. Homeowners should consult the current provisions of the statutes dealing with HOA enforcement and with property owner rights, ideally with their own legal counsel, to delineate the applicable process to be followed. The HOA Bylaws also have some general guidance on the enforcement process available to the HOA.

The Board and ACC have the right and permanent easement to enter any and all lots for the purpose of inspecting any question of compliance, drainage issues, and/or any problem or complaint. [9.06]

## **ATTACHMENT A**

### **Information That Every Long Canyon Property Owner Should Know<sup>1</sup>**

#### **I am a responsible property owner. Why do we need ACC Rules?**

Long Canyon is a beautiful neighborhood developed with a strong interest in preserving its environmental quality. Its custom homes on large wooded lots have been designed to meld with the natural environment and to form the pleasing appearance of a harmonious neighborhood without the off-putting standardized similarities of more typical “subdivisions.” This was the concept in Long Canyon’s founding documents. Its Declaration of Covenants, Conditions and Restrictions (DCCRs) provides the legal basis for achieving these goals. The quality of the neighborhood and its enjoyment by property owners have been maintained over the years by the Homeowners Association (HOA), which has developed neighborhood rules designed to balance and protect environmental quality, private-property interests, and community values. The ACC Rules are the set of approved regulations that the HOA Board believes is needed to reflect that balance, to ensure all owners may enjoy their property, and to protect the values of all properties in the community.

#### **There are a lot of rules. What do I REALLY need to know about the ACC requirements?**

We agree that there are a lot of rules, primarily because there are many specific situations that may be encountered and need to be considered. Since every property owner is expected to abide by the ACC Rules, you should at least become familiar with their scope. The Rules include provisions addressing, among others:

- Specifications for constructing a new home on a lot
- Specifications for adding to an existing house, including swimming pools and decks
- Specifications for remodeling an existing structure
- Landscaping
- Tree removal
- Exterior lighting
- Fencing and walls
- Outbuildings and minor structures like greenhouses
- Equipment placement, including solar panels and rainwater harvesting

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<sup>1</sup> This information will be emailed to all property owners, and it will also be provided to every new homeowner, along with the links to the current governing documents and rules.

- Parking
- Pets and other animals
- Nuisances
- Neighborhood safety matters
- Procedures for working with the ACC

The DCCRs and current ACC Rules documents are posted on the HOA website, at <http://www.longcanyon.org>, for easy reference by homeowners.

The two things that every homeowner should remember are:

- The ACC Rules include so-called “neighborhood rules” that are intended to regulate in a reasonable and continuing way various normal activities in the neighborhood (like parking, signs, safety, noise, etc.) for the benefit of the community at large. If you are bothered by what you consider a neighbor’s continuing noncompliance with these neighborhood Rules, even after you attempt to bring it to their attention, you should inform an ACC member about your concern, for the ACC’s follow-up as appropriate.
- The ACC Rules also include rules governing construction and landscaping (including tree removal) that you might undertake from time to time on your property. . The Rules are applicable to any construction that will or may alter the external appearance of your property as viewed from the street or neighboring properties, including but not limited to addition of or changes to structures, improvements, exterior modifications, repairs, excavations, and landscaping. Generally, you should assume that such construction or landscaping must be approved by the ACC before it begins. Check with the ACC before undertaking any construction, remodeling, or landscaping that may change the physical appearance of your property or that may affect your neighbors’ enjoyment of their property (for example, their views or privacy). The ACC will help you decide what Rules come into play and how your construction plans can comply with them. They will also initiate the process for you to follow to have the construction project approved.

**What should I do if I think a particular ACC restriction is not appropriate for my individual situation?**

The ACC Rules are intended to be equitable and balanced in both their requirements and their applicability to all homeowners. However, a particular ACC Rule provision, which might be generally reasonable for others, may create an irreconcilable undue hardship on



a specific owner. All property owners should understand the following process to address these situations:

1. Until action is taken by the Board of Directors, you should assume that all Rules *are* applicable to you. Not complying with Rules without receiving explicit Board approval otherwise will subject you to fines or other enforcement actions legally available to the HOA.
2. Discuss your concern with the ACC Chair, who needs to understand your concern and what action gives rise to your concern; the ACC Chair may be able to provide new information and options for your consideration.
3. Following your consultation with the ACC Chair, if you then decide there is a reasonable, legitimate basis that the rule should not apply to your situation, you will need to seek an approved exception of its applicability to you on the basis of your specific circumstance.
4. To receive an exception specific to your circumstance, you must be granted a “variance” from the Board of Directors of the HOA. Consideration of a variance requires the following steps to be taken (ACC Rule 5.2.26):
  - a. You must make a request for the formal variance to both the ACC Chair and the HOA Board President, providing the specific rule(s) for which you seek an exception and the basis for such an exception.
  - b. The HOA President will provide notice to neighbors and will schedule a hearing before the entire Board at some mutually agreeable time as part of a posted Board meeting, with the notice providing the specifics of the requested variance.
  - c. In the hearing, you will make your case; adjacent homeowners may express their support, concerns, or lack thereof at their discretion; the ACC Chair may provide supplemental information; and the directors may ask questions of all parties.
  - d. Following that hearing, the Board will decide whether or not to grant the variance, and in some instances what special conditions should be attached to that particular approved variance.

### **How are the ACC members selected? How do I become a member of the ACC?**

The Board of Directors appoints all members of the ACC, including the Chair, each year, generally following the annual director elections. Per the HOA’s governing documents, there are three regular members and two alternates at any one time; the alternates serve on an *ad hoc*, interim basis when a regular member is unavailable for a specific task.

Any property owner in good standing is eligible to be an ACC member. Interest or possible interest in your serving on the ACC should be expressed to the Board President. The President and a current ACC member, typically the Chair, will then set up a time and place to visit with you about your interest.

**Where can I find out who is currently on the ACC?**

The current ACC membership and their contact info are on the website, under the Documents & Resources tab and its Board & Committees webpage. The ACC Chair is also identified on the last page of each issue of the *Long Canyon Voice*, the community newsletter.

**ATTACHMENT B**  
**APPLICATION FOR CONSTRUCTION PLAN REVIEW**  
**LONG CANYON PHASE II & III HOMEOWNERS ASSOCIATION**

*Any construction project by a homeowner that significantly alters the external appearance of the homeowner's property must be reviewed and authorized in advance by the HOA's Architectural Control Committee, under provisions of the HOA's DCCRs. This form, to be completed by the property owner and submitted to the ACC Chair before construction plan review, is intended to ensure required information is furnished and to facilitate the timely approval of the project by the ACC. If additional space is needed for any question, please attach annotated additional sheet(s).*

1. Property owner name(s):
2. Street address of property:
3. Owner contact information:
4. Short description of type of project (new pool, room addition, fence and gate installation, etc.):
5. Projected date for start of construction (approximate):
6. Planned elapsed time to complete project (months):
7. Describe briefly the schedule of construction activities, including any phasing, associated with project:
  
8. Will heavy equipment (concrete truck, backhoe/dozers, dump truck, etc.) be used? (Yes/No):
9. If new structure or an addition to existing structure, approximate number of square feet of the following categories of enclosed space involved:
  - Heated and cooled space:
  - Non-heated/cooled space:
10. List number, diameter at 4 feet above ground, and map location of trees required to be removed:
  
11. Are drainage easements on property? (Yes/No): Conservation easements? (Yes/No): If "Yes", has Owner evaluated HOA restrictions on disturbing any such easements? (Yes/No/NA)
12. Have all City of Austin approvals been requested? (Yes/No/NA) ... Been received? (Yes/No/NA)
13. Have all Travis County approvals been requested? (Yes/No/NA) ... Been received? (Yes/No/NA)
14. ACC Rules (5.0) require that potentially affected neighbors (those whose views or lines of sight, or privacy may be affected) be made aware of a planned project and

offered the opportunity to comment. Please attach additional sheet(s) with a list of those potentially affected neighbors and the views they expressed.

15. Specify any variance and its rationale that the owner believes is or may be warranted to comply with one of the applicable ACC Rules, and any special provisions that the owner is making to mitigate or avoid any adverse effects of the project on ACC Rules, neighboring property, the environment, and the Long Canyon community. Use additional sheet(s) to respond.
16. The Plan Submission Fee designated by ACC Rule 5.1 must be submitted to the ACC before this Application is considered complete and before an initial site and plan review is made. A receipt for this fee will be provided when the application is accepted.
17. Pre-Construction Approval Checklist

*By initialing the applicable elements in the checklist table below, the property owner warrants that the requirements of each of the items in the checklist below have been reviewed, the applicable items specified and provided to the ACC, and that the project will be constructed in accordance with the applicable provisions of the ACC Rules. The ACC will use the applicable general provisions below plus other specific ones that are pertinent to the prospective project to review and approve the project.*

Construction Plan Element	Relevant ACC Rule(s)	Applicable? (Y/N)	Owner Initials
Site Plan	5.2.1, 5.2.3, 5.2.13		
Septic System	5.2.6		
Floor Plans	5.2.4		
Elevation Plans for all Views	5.2.4		
Exterior Specification (Material & Color)	5.2.10		
Roofing Material	5.2.11		
Exterior Lighting Plan, including mailbox	5.2.14		
Landscape Plan	5.2.15, 5.2.16, 5.2.17		
Erosion and Sediment Control Plan	5.2.5		
Survey Showing Easements & Lot Boundaries	5.2.1, 5.2.2, 5.2.3		
HVAC, Tanks & Pool Equipment Locations	5.2.7		
Tree Removal Plan/Tree Survey	5.2.16		

Identification and Notification of Potentially Affected Neighbors	5.0		
Project Submission fee	5.1		
All applicable permits	5.2.27		

The information submitted in this application is accurate and complete, to the best of the homeowner's knowledge:

\_\_\_\_\_ Date  
Homeowner Signature

*After signing below, the ACC will return a copy of all pages of the fully executed Application to the Property Owner. The returned copy will also include a receipt for the Project Submission Fee, as required in section 5.1. **NOTE: NEITHER COMPLETION OF THE APPLICATION NOR ITS ACCEPTANCE BY THE ACC CONSTITUTES APPROVAL OF THE PROPOSED PROJECT OR AN AUTHORIZATION TO PROCEED.***

*End of Application Form*

For ACC Use:

Project Submission Fee: \$\_\_\_\_\_ Construction Deposit:\$\_\_\_\_\_

The following two ACC Members have accepted this application and agreed to take responsibility to work with the homeowner in initially reviewing the project; defining additional applicable ACC requirements, if any; and ensuring the project as approved is substantially consistent with the prevailing ACC Rules:

\_\_\_\_\_ Date  
ACC Member Signature

\_\_\_\_\_ Date  
ACC Member Signature

**ATTACHMENT C**  
**CONSTRUCTION DEPOSIT RECEIPT AND AUTHORIZATION TO PROCEED**  
**(TO BE COMPLETED BY THE ACC UPON PROJECT APPROVAL)**

In compliance with the ACC Rules as adopted by the Board of Directors of the Long Canyon Phase II & III HOA (Association), and \_\_\_\_\_ **[owner name]**, at \_\_\_\_\_ **[property street address]**, Austin TX 78730, hereinafter called the "owner," does hereby deposit with the Association \$\_\_\_\_\_, hereinafter called the "deposit" required to secure and authorize the proposed construction project to \_\_\_\_\_ **[short description of project]**, subject to the following agreed terms and conditions:

1. The Association authorizes the owner to proceed with the proposed project, as modified if and as warranted to comply with Architectural Control Committee (ACC) Rules, with such authorization expressly subject to the following special conditions (if any): \_\_\_\_\_. The Attachment to this Authorization to Proceed (ATP) specifies the mandatory construction practices that are to be followed for the project.
2. The deposit shall be held as security against any damage potentially caused to the Association's common areas, streets, other owners' lots and improvements and all improvements, structures, landscaping and personal property attached thereto or located thereon, which damage is caused by the acts and/or omissions of owner, his or her general contractor and/or any employee, agent or subcontractor of the owner or general contractor in connection with construction of improvements on the owner's lot, including construction that does not conform to the ACC-approved construction plan.
3. Upon the occurrence of any such damage, the Association, from time to time, and without prejudice to any other remedy, may use the deposit to the extent necessary to repair such damage or pay to the injured party the cost of such damage. It is expressly understood that the issuance of any or all of the deposit shall not be considered a measure of the damage nor release owner from paying additional amounts if the total damage exceeds the construction deposit amount.
4. Within a reasonable time of the ACC being notified of the occurrence of such damage, the amount of the deposit to be used, if any, shall be approved in writing by a majority of the HOA Board in a properly noticed meeting. The Board may postpone its review of payment pending receipt of any information that it may require of the ACC and/or owner. A copy of the Board's decision shall be mailed to the owner at the address indicated above. Withdrawal of money from the deposit shall occur no sooner than 30 days after the date that the Board's written decision was transmitted to the owner.

5. If the owner wishes to contest the Board's decision to use any or all of the deposit as described above, (s)he must, within thirty days after the decision, submit a written request for a hearing before the Board of Directors, and include the basis for requesting the Board's reconsideration of the matter. The Board shall schedule such hearing as part of the larger agenda of a regular or special Board meeting and send written notice of the hearing date to the owner no less than ten days prior to said date. The Board, by majority vote, shall then determine the amount of the deposit to be used, if any.
6. In addition to the refundable construction deposit for this project, per ACC Rules section 5.1, there is a non-refundable plan review fee. If payment of this fee and/or a receipt for this fee has not already been provided in the plan submission process, it may be included with this document. If that is the case, receipt of the plan submission fee of \$\_\_\_\_\_ is hereby acknowledged.
7. It is understood and agreed to by the owner that the ACC's review, inspection, and approval of owner's plans and specifications are only for the purpose of determining compliance with the terms and conditions of the DCCRs for the HOA. The ACC's approval of the plans and specifications shall not be deemed approval of the structural safety, engineering soundness, or conformance with building or other governmental codes, nor shall its final inspection be deemed to warrant the sufficiency or acceptability of the construction, workmanship, materials or equipment included in the improvements.
8. Neither the ACC, the Board, nor any member thereof shall be liable to the owner or to any other person for any loss, damage, or injury arising out of the payment or nonpayment of the deposit funds unless such loss, damage, or injury is due to the willful misconduct or bad faith of the ACC, the Board, or members of either.
9. Upon completion of the construction on the owner's lot per the approved plans and specifications and all ACC Rules, and a final inspection by the ACC satisfactorily indicating that any special conditions specified in Paragraph 1, if any, have been substantially met, and that no damage as set forth in Paragraph 2, if any, remains unremedied, the deposit balance, less the costs incurred by the Association to remedy or offset damages, if any, shall be returned to owner.
10. No interest shall be payable on the construction deposit.
11. By signatures below, the Association acknowledges receipt of \$\_\_\_\_\_.00 as the construction deposit in the form of personal check from the owner, and the owner acknowledges that the issuance of an authorization-to-proceed with the project is subject to all provisions of this agreement, including any special conditions agreed in Paragraph 1 above.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

For Owner:

\_\_\_\_\_

\_\_\_\_\_

Printed Name

For Long Canyon Phase II & III HOA: ACC or Board Member:

\_\_\_\_\_

\_\_\_\_\_

Printed Name



Attachment to ATP and Deposit Agreement/Receipt Form  
**MANDATORY CONSTRUCTION PRACTICES**

*Contractors and subcontractors on all construction projects are required to comply with the following basic construction practices. The project owner must provide a copy of these mandatory practices to all contractors, and the prime contractor must be instructed to provide copies to all subcontractors and to ensure compliance with these Rules. The property owner, by signing the ATP and Deposit Receipt form, acknowledges that the construction deposit is one means to assure substantial conformance with these measures as well as the approved project specifications.*

1. The site will be kept clean and orderly throughout the construction period.
2. Waste removal containers such as a commercial dumpster must be provided, and all waste materials from the job site must be contained within the container.
3. All trash on the site will be picked up on a regular basis.
4. Any trash that blows off the construction site or is tracked off by vehicles must be picked up immediately.
5. No secondary waste piles or visible storage areas are allowed.
6. Any fences between adjacent properties must be maintained.
7. Fires are NOT PERMITTED at any time or for any reason.
8. All construction-related parking is to be on site to maximum extent practicable, and not blocking access to neighbors' driveways or the street.
9. Street in front of and leading to/from site shall be kept free of dirt, mud and construction debris, and should be regularly inspected for such debris, including nails and screws.
10. Gravel should be used to eliminate dirt and mud from being deposited on the street if vehicle or equipment traffic enters the property.
11. Construction crews will not block the road with heavy equipment for extended periods of time.
12. Workers will be considerate of the neighbors' property, keep off of grass, etc., and avoid noisy construction work on weekends and evenings.
13. No Sunday work, except for interior work which does not create noise for neighbors.
14. No work before 7 AM (8 AM on Saturday) or after 7 PM, except interior work that does not create noise or other disruptions for neighbors.
15. Neighbors' driveways are not to be used for turning of vehicles or equipment.
16. Tree removal outside of the footprint of impervious cover areas must be documented with a tree survey and approved in writing by the ACC prior to any removals.
17. Music on the construction site should be kept at moderate volume.
18. Workers must obey the 35 MPH speed limit throughout the neighborhood.
19. Any required documentation and permits (e.g., soil erosion control plan; septic tank permit, City of Austin Code building permit) must be completed and acquired prior to beginning that phase of the project.
20. No outbuildings or trailers on the property may be used as a residence of any kind.
21. Sanitary toilet facilities must be provided, properly maintained, and screened from the street and neighbors as much as possible.
22. Only one contractor sign, not larger than 3 x 4 feet, may be posted during the period of construction.

**ATTACHMENT D**  
**CERTIFICATE OF PROJECT COMPLIANCE/NONCOMPLIANCE**  
**LONG CANYON PHASE II & III HOMEOWNERS ASSOCIATION**

To Homeowner: \_\_\_\_\_

Property address: \_\_\_\_\_

Project description: \_\_\_\_\_

Your recently completed construction project described above has been inspected and reviewed, and the ACC has determined that your project **IS / IS NOT** (*select one*) in compliance with all approved construction plans, restrictions, and covenants.

**If the project is in compliance**, by copy of this Certificate of Project Compliance the ACC authorizes the Treasurer to issue a full refund of your construction deposit.

**If the project is determined not to be in compliance**, you are hereby notified the construction deposit is being held by the HOA for the following non-compliance issues:

Non-compliance #1: \_\_\_\_\_

Non-compliance #2: \_\_\_\_\_

For non-compliant projects, the Treasurer is instructed not to return the construction deposit to you until you resolve the non-compliance, as determined in a follow-up inspection and the ACC issues an unencumbered Certificate of Project Compliance.

It is your right to appeal any part of this ACC determination to the HOA's Board of Directors. If you wish to do so, please contact the Board President by email, identifying the specific issue(s) and the rationale of your appeal, no later than 30 days after receiving this Certificate. As warranted, a hearing before the full Board will be scheduled. Following that hearing and possibly other remedial actions by you, the Board may decide to return all, none, or a portion of the construction deposit to you and to take other actions as warranted.

\_\_\_\_\_  
(Signature of Board or ACC Member) (Date)

\_\_\_\_\_  
(Printed name of Board or ACC Member) (Email address)

\_\_\_\_\_  
(Phone)