

# **Gaines Bend Property Owners Association** **Architectural Control Committee Standards**

## **Purpose**

The Gaines Bend Architectural Control Committee (ACC) was duly appointed by the Gaines Bend Property Owners Association Board of Directors (“Board”) pursuant to Paragraph 9A of the Supplemental Declaration of Covenant, Conditions and Restrictions for Gaines Bend Subdivision, recorded in Volume 953, Page 508, of Official Public Records of Palo Pinto County, Texas (“Declaration”) to review Construction Permit Requests (“Request[s]”) for construction of and modifications to improvements on the Lots in Gaines Bend Subdivision (“Subdivision”) which are under the jurisdiction of the Gaines Bend Property Owners Association, Inc. (“GBPOA”). The ACC will endeavor to provide a uniform plan for new construction and existing building modifications on lots within the Subdivision (“Lots”) in accordance with the Declaration, other restrictive covenants applicable to the individual Lots as listed on Exhibit B of the Declaration (“restrictive covenants”), and the Construction Guidelines contained herein.

In this regard and pursuant to Paragraph 9C of the Declaration, the ACC has full authority to make decisions regarding and to enforce the provisions of the Declaration and restrictive covenants and the proposed improvements to a Lot, including the authority to issue rules, regulations, and guidelines interpreting and implementing the architectural restrictions contained in the Declaration and restrictive covenants. Specifically, the ACC shall implement this authority by:

- Publishing and administering the Request Process and Construction Guidelines contained herein to property owners, builders, and contractors.
- Reviewing Requests and documentation submitted for approval.
- Ensuring that construction, remodeling, and demolition work complies with the approved Requests, Construction Guidelines, Declaration, and applicable restrictive covenants.
- Developing and proposing changes to these Standards and Construction Guidelines contained herein for approval by the Board when deemed necessary.
- Assessing road use fees to compensate the GBPOA for latent damage to the private roads caused by heavy construction vehicles.

## **Governance**

The ACC will consist of at least three GBPOA members appointed by the Board. Current Board members, their spouses, or persons residing in the household of Board members cannot be members of the ACC. ACC members will serve a term of 2 years, but upon approval of the Board, may serve multiple consecutive terms. The ACC will be responsible to organize itself including electing officers or delegating specific duties to individual members. The ACC will meet as needed for review of Requests. A designated Board member will act as a liaison between the ACC and the Board for any matters needing attention of the Board. The ACC will notify the Board liaison of all pending Requests and status of approval or disapproval of Requests.

## Request Process and Timelines

1. Prior to commencement of any new construction or modification of existing improvements on a Lot, an application must be completed and submitted to the ACC accompanied with a complete set of construction plans and drawings, including:
  - Demolition plans for any current structures proposed to be removed
  - Plot plans showing the locations of the proposed new structures to be built on the Lot with sufficient detail for the ACC to determine: (a) the finished construction scale, dimensions, design, character, position, and grading plan for all improvements, including residential dwellings, accessory buildings, and other air conditioned and non-air-conditioned improvements; and (b) the location on the Lot of any swimming pools, fences, driveways, walls, carports, docks, utilities, and landscaping; and
  - samples or a description of exterior masonry materials to be used and paint color samples for exterior walls and trim of improvements.
2. After the receipt of a Request, the ACC shall review the proposal and shall notify an owner in writing and/or email of its approval or disapproval within thirty (30) days. The ACC may request additional information or extend the approval time by written notice to the owner of the Lot to enable the ACC to determine the location, scale, size, design, character, style, construction materials, and appearance of the proposed improvements. In deciding whether to approve a Request, the ACC shall take into consideration, among other factors, the suitability of the proposed improvements as the same relate to the general plan of development for the Subdivision and the effect of the proposed improvements on other Lots and residents of the Subdivision. The ACC shall have full authority to make decisions regarding the Request and proposed improvements to the Lot.
3. Any disapproval shall describe the basis for the denial in reasonable detail or suggest changes to the Request as a condition of approval. The owner may revise the Request and resubmit for approval; however, no construction, alteration, or modifications shall commence on a Lot until written approval of the ACC is obtained.
4. A decision by the ACC denying a Request may be appealed to the Board. A written notice of the denial must be provided to the owner of the Lot by certified mail, hand delivery, or electronic delivery. The notice must: (a) describe the basis for the denial in reasonable detail and changes, if any, to the Request required as a condition of approval; and (b) inform the owner that the owner may request a hearing before the Board on or before the 30<sup>th</sup> day after the date the notice was mailed to the owner. The hearing shall be held and conducted in accordance with Section 209.00505(e)-(i) of the Texas Property Code.
5. If a Request has been approved, the ACC will calculate and notify the owner of the amount required for a road use fee. The road use fee compensates GBPOA for latent damage to GBPOA private roads caused by heavy construction vehicles. When the road use fee is paid, the ACC will notify the applicant that the Request is approved. **Note: Each owner is fully responsible for compliance and adherence to all applicable laws of the State of Texas.**
6. This requirements of the Request and approval process by the ACC are intended to ensure compliance with the restrictive covenants applicable to a Lot, as established by the separately recorded restrictive covenants applicable to the Lot or by the Declaration. If an owner makes unauthorized changes to his/her Lot or improvements not approved by the ACC, the ACC and the GBPOA shall have the right, through its agents and employees to seek enforcement of the restrictive covenants contained in the Declaration and the separately recorded restrictive covenants applicable to the Lot in a court of competent jurisdiction located in Palo Pinto County, Texas. The cost of such enforcement including attorney's fees incurred in the enforcement of

the rights under these provisions shall be added to and become a part of the Assessments to which such lot is subject to the extent permitted by the Declaration and governing Texas law.

## **Construction Guidelines**

### **All Construction Work**

All construction work, including small jobs for which permits are not required and other work that is exempt from permit fees, must comply with all requirements of this ACC Standard.

### **Buildings and Other Structures**

1. Lots shall only be used for residential purposes. No structure shall be erected on a lot other than one (1) primary residential dwelling for occupancy by a single family (“primary residential dwelling”) and three (3) accessory structures as described in paragraph 6 below.
2. No temporary or permanent building, structure or improvement shall be erected, altered, placed or permitted on any Lot prior to the commencement of construction of the primary residential dwelling. No manufactured housing, “pre-fab” home, mobile home, recreational vehicle, travel trailer, pole barn, or other similar product may be installed or affixed as a permanent structure on any Lot as a primary residential dwelling or accessory structure. Pre-engineered metal frame construction is allowed for accessory buildings but not for residences.
3. Minimum Size/Height Restrictions. The total air-conditioned, habitable area of a primary residential dwelling, as measured to the outside of exterior walls but excluding garages, open porches, breezeways, patios, and detached accessory buildings, shall be not less than stated in the restrictive covenants applicable to each Lot.
4. The maximum height of any structure shall not exceed 40 feet from the existing grade (at the time the Request is submitted) at that point on the Lot. On severely steep Lots, exceptions to the 40-foot maximum height may be granted upon review and approval by ACC on a case-by-case basis.
5. Building setback lines shall comply with the applicable restrictive covenants for each Lot. Where not otherwise stated, structures shall not be built closer than 10 feet to sideline of the adjacent Lot, and no closer than 20 feet from the street side of the property line. A ten-foot setback also applies when the rear property line abuts an adjacent platted lot.
6. No more than four (4) permanent structures will be allowed on a Lot as follows:
  - Primary residential dwelling
  - Guest house
  - Detached enclosed garage
  - Storage building

### **Fences and Walls**

1. Fences and walls (including retaining walls) must be placed within the property lines and not on the Lot’s property lines.
2. Fences may not be built until construction of the primary residential dwelling has commenced. All fencing must be approved by the ACC prior to construction and must not exceed six (6’) feet in height. All security fencing must be see-through and finished in earth tones or black to blend with the natural environment. No barbed wire fencing, barbed security fencing or electric fencing is allowed.

## **Roofs**

Acceptable roofing materials include slate, clay tile, metal, and composition materials, the type and colors of which have been approved by the ACC. Any other roofing materials must specifically be approved by the ACC.

## **Exterior Dwelling Materials**

The exterior of a primary residential dwelling must be covered with acceptable building materials which include stone, brick, stucco, masonry, masonry veneer, cedar or wood siding, cement board, or glass. Prohibited exterior materials include exposed plain concrete or concrete block above foundation level, sidings of metal, asbestos, vinyl, plywood, or other engineered wood (except for gable-ends, soffits, eaves, and overhangs). All exterior materials must be of natural earth tone colors that blend with the surrounding environment. No exotic, unusual, or visually questionable colors are allowed. The ACC has full discretion to determine appropriate colors for the Subdivision.

## **Sanitary Sewer Systems**

1. All sanitary sewage systems shall be installed in accordance with specifications of the Texas Department of State Health Services and/or the Brazos River Authority ("BRA"). Lot owners shall be responsible for contacting the BRA and obtaining the necessary permits for installation of sanitary sewage systems.
2. Owners may also contract with the Gaines Bend Utilities, Inc. for sewer service. If this option is chosen, the owner will create and maintain an active account in good standing with the Gaines Bend Utilities, Inc.

## **Individual Irrigation Water Supply Systems**

All individual irrigation water supply systems shall be installed in accordance with standards of the Texas Department of State Health Services and/or the BRA. Owners of said water supply systems will be responsible for obtaining and maintaining permits from the BRA to appropriate water from the Morris Sheppard Reservoir and paying for all fees and bills thereof.

## **Docks**

1. Construction, demolition and major alteration of a dock, pier, walkway, elevator or tram for which structural materials are delivered or removed using Gaines Bend Roads requires a GBPOA permit and payment of a road use fee prior to delivery or work on Gaines Bend.
2. Installation of a dock constructed elsewhere and floated to Gaines Bend does not require a GBPOA permit or fee. Minor work, including manufactured PWC floats and routine maintenance and repair does not require a GBPOA permit or fee.
3. The GBPOA permit constitutes approval to use the common property (roads), and is not approval to install a dock or other improvements past the 1000-foot contour line which is the jurisdiction of the Brazos River Authority (BRA). Owners must obtain a BRA permit to install a dock on the Lake. Configuration and design of docks requires BRA approval, and is not reviewed by the GBPOA.

4. All construction must be performed on the owner's property. Work must not block or interfere with access or use of adjacent properties or docks of other owners. The Gaines Bend POA boat ramp may not be used for launching or removal of boat docks.
5. Demolished docks must be transported out of Gaines Bend.
6. Loaded vehicles transporting dock segments in and out of Gaines Bend shall not exceed nine feet in width, twelve feet in height and 60,000 pounds GVW. The contractor shall survey the route for hazards prior to movement and report damage that occurs due to movement to the GBPOA. Vehicles transporting dock segments shall be escorted by a pilot vehicle to ensure safety.

### **Storage Sheds, Enclosed Garages, and Other Accessory Structures**

1. The appearance and design of accessory structures shall match or be harmonious with material used on the primary residential dwelling and painted or stained colors of natural earth tones which are congruous with the primary residential dwelling and surrounding environment.
2. Accessory structures constructed with metal siding must have a wainscot of rock, stone, or brick that is harmonious with the exterior finish materials of the primary residential dwelling.

### **Swimming Pools**

Swimming pools shall not be installed within 10-feet of either side lot line. Above-ground pools are not allowed. Pools and pool enclosures must comply with existing local and State of Texas safety laws.

### **Exterior Lighting**

1. Any exterior lighting installed on any Lot must be indirect or of such controlled focus (i.e. facing downward) and intensity as not to disturb residents of other Lots. Examples of, but not limited to, acceptable exterior lighting include landscape lights used to accentuate plant material and other features such as flag poles and light fixtures and standards chosen to blend into and enhance the Lot.
2. Down-lights are preferred, but up-lights may be allowed for illumination of flags, or where the overhang of a roof prevents light from exposure to the night skies.
3. Spillage of light or glare from one property to another is prohibited. Light shields and timer/sensory systems should be used.

### **Wind Turbines and Towers**

Wind turbines, and other similar tower structures are not allowed.

### **Flags and Flagpoles**

Texas statutes presently render null and void any restrictions in the Declaration which restricts or prohibits the display of certain flags or the installation of certain flagpoles on a residential lot in violation of the controlling provisions of Section 202.012 of the Texas Property Code. The GBPOA ACC has adopted this policy in lieu of any expressed prohibition against certain flags or flagpoles.

1. Permitted Flags.

- a. US, Texas and military branch flags are permitted and must be flown in accordance with the 4 U.S.C. Sections 5-10 and Texas Government Code Chapter 3100.
  - b. Other permitted flags: sport teams, college or university and seasonal displays.
  - c. Any flag must not exceed a maximum of three (3) feet in height by five (5) feet in length.
  - d. All flags must be kept in good condition.
  - e. Maximum of two (2) flags per flagpole at any one time.
2. Flagpoles Per Dwelling.
    - a. Two (2) freestanding flagpoles, or two (2) flags attached to the dwellings are permitted.
    - b. A freestanding flagpole must not exceed twenty (20) feet in height.

### **Solar Energy Devices and Energy Efficient Roofing**

Texas statutes presently render null and void any restrictions in the Declaration which prohibits the installation of solar energy devices or energy efficient roofing on a lot. The ACC has adopted the following policies in lieu of any expressed prohibition against solar energy devices or energy efficient roofing.

1. The owner shall furnish the ACC with a written document showing location within the Lot of the solar energy device or energy efficient roofing and a photograph of any equipment and/or materials associated with said installations.
2. Approval by the ACC is required prior to installing a solar energy device or energy efficient roofing. The ACC is not responsible for supervising the installation or construction to confirm compliance with governmental codes, ordinances, state, or federal laws.
3. ACC approval of a solar energy device or energy efficient roofing will be rendered within 30 days of receiving a written request by the owner.

### **Construction Debris Mitigation and Screening**

1. A building permit applicant and the owner of the real property located within the Gaines Bend ACC jurisdiction on which any construction activity will occur, shall contain all construction debris, airborne or otherwise, on the subject construction site. For purposes of this section, demolition is included within the term construction. Construction debris shall mean any materials, supplies, equipment, garbage, solid waste, recyclables, earthen material or particles derived from or arising out of the permitted construction activity. Construction site shall mean the real property on which the construction is occurring.
2. Temporary perimeter site fencing shall be required for construction sites pursuant to the following guidelines:
  - a. The fence shall be a minimum of 3 feet high, with approved 90% opaque wind screening material outside and securely and tightly attached to the fence to prevent dust and debris intrusion upon adjacent properties. The barrier or screening must be kept secure and from any wind damage, and free of any rips or tears. Except where specified otherwise, the barrier must cover the entire construction site. Approval of the screening material will be part of the permitting process.
  - b. The fence shall be installed and maintained at ground level on all sides of a construction site no sooner than ten days before commencement of construction on a previously vacant lot or a lot that is not vacant with an additional structure being erected on same.

- c. The temporary site fencing shall be shown on the site building plans submitted along with the building permit application.
  - d. Temporary construction screening may include the following graphics: The canvas or mesh fence panel covering may provide identification of the name and intended use of the project, project rendering, project website address of owner or agent, contact information of owner or agent and emergency contact information of the general contractor. Optional information may include names of the developer, architect, engineer, lending institution, general contractor and their corporate logos. No part of the fence covering may contain advertising or sales information.
  - e. Those construction sites abutting a waterway must include the installation of a silt fence to prevent any soil or construction debris from the construction site from entering Possum Kingdom Lake.
  - f. Gates may be installed on the front, back or street side property lines. The gate may open inward or outward but when opened may not block any right of way. The gate shall be the same height as the fence with an allowance of up to 4 inches on the bottom of the gate to allow for clearance from the ground to open.
  - g. All construction materials, dumpsters, and portable toilets shall be required to be placed within the fenced area at all times and construction sites shall be secured at night and on weekends when no work is being performed on the structure.
  - h. Temporary site fences must remain on the property until the building construction and landscaping is substantially completed.
- 3.** A waiver of the temporary site fencing or silt fencing may be granted by the Gaines Bend ACC as follows:
- a. When the property has or abuts to an existing 3 foot or higher concrete fence or wall, the Gaines Bend ACC may grant a waiver for that portion of the temporary site fencing where the wall is located.
  - b. If a structure is to be occupied after partial demolition and during construction, the property owner may request the Gaines Bend ACC grant a waiver of all or a portion of the temporary fencing requirement.
  - c. The Gaines Bend ACC may waive the requirements for some or all of the construction debris mitigation measures and screening requirements for construction projects affecting less than 25% of the structural square footage of an existing structure being enlarged or renovated. Any such waiver will be granted based on the nature of the project, the estimated time to complete the project, and the proximity of the construction site to neighboring properties and waterways.
- 4.** For construction on water front properties, the temporary site or silt fence should set back from the lake edge as far as possible to not restrict the views of neighboring properties.
- 5.** When an existing building or structure is to be demolished the following is required for the construction site: Following demolition, if the property owner does not maintain an active building permit, the temporary fencing must be removed.
- 6.** The provisions and procedures of the Gaines Bend ACC Construction Debris Mitigation and Screening requirements shall be in addition and supplementary to any other requirements and remedies now existing or subsequently provided by law. The building permit applicant and the property owner shall be jointly and severally responsible for compliance with this section.

## **Gaines Bend Rules of Construction Activity**

1. The common area road fronting the construction site shall be restored to pre-construction condition by the owner within 30 days of completion of construction. The property owner will be responsible for all expenses associated with repairing the damages and restoring the road to a condition that is approved by the GBPOA board.
2. All construction activity, including material storage and waste disposal, shall be confined to the permitted property unless otherwise authorized in writing. Vehicles and equipment may be parked on the common area right-of-way, well clear of paved surfaces, during work hours only.
3. All refuse, including trash, scrap, rock, trees, brush and dirt must be removed from Gaines Bend and disposed according to state law.
4. Refuse from do-it-yourself jobs may be placed in the Gaines Bend Refuse Facility according to the rules for that facility. All such refuse must be reduced to pieces no more than four feet long by four feet wide.
5. All refuse on site shall be placed and transported in containers adequately configured and covered to prevent loss of contents due to winds and during transport. Builder's refuse blown or discarded off site shall be retrieved by the builder and placed in appropriate containers
6. Scrap appliances shall be hauled off Gaines Bend.
7. Burning of refuse is not allowed.
8. Concrete trucks may not "wash out" or otherwise dump excess concrete outside the owner's property lines.
9. Portable restroom facilities must be provided for workers and removed within 10 days of completion of construction.
10. All workers must operate vehicles in a safe manner and comply with posted speed limits.
11. All workers on Gaines Bend are authorized access to the jobsite only.
12. Work hours are limited to weekdays 7AM to 7PM and Saturdays 9AM to 4PM.
13. No work shall be permitted on Sundays, major holidays, or major holiday weekends.
14. The building site must be cleaned up by 7:00PM on Friday evenings. This includes proper disposal of loose trash, scrap construction materials, trees, brush, and scrap rock.
15. Lot owner is ultimately responsible for compliance. Thus, any non-compliance and/or damage issues will be resolved between the lot owner and the Gaines Bend POA Board of Directors.
16. All work must be completed within 9 months of approval date except for new homes which will be permitted for 18 months.
17. Upon completion of construction, all unused construction material and containers shall be removed from the premise and the site shall be left in a neat and orderly fashion with construction deemed complete by the ACC. Loose/unused construction material cannot be stored or left on the premise or on the easements adjacent to the property.

## **Permit Fees**

A road use fee will be assessed to compensate the GBPOA for latent damage to the private roads caused by heavy construction vehicles. The road use fee will be paid prior to approval of a construction permit. A separate fee will be charged to the owner for direct damage to roads or other infrastructure caused by the owner's contractors during construction. A schedule of road use fees will be maintained by the ACC, and the fee structure may be changed from time to time by approval of the GBPOA Board.

