

**Mallard Crossing Community Association, Inc.**

**ARCHITECTURAL REVIEW COMMITTEE GUIDELINES**

STATE OF TEXAS  
COUNTY OF HARRIS

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KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Mallard Crossing Community Association, Inc. ("Association") is charged with administering and enforcing those certain covenants, conditions and restrictions contained in the recorded Declarations for the various sections of the community (referred to collectively as "Declarations"); and

WHEREAS, pursuant to Declarations and Section 204.010 of the Texas Property Code as amended and effective as of August 28, 1995, and Section 209.00505 as amended and effective as of September 1, 2021, thereto regarding the Associations Architectural Review Committee Guidelines and Authority ("ARC Guidelines"); and

WHEREAS, the Association desires to establish ARC Guidelines consistent with Sections 204.010 and 209.00505 of the Texas Property Code to provide clear and definitive guidance to owners.

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

**GUIDELINES AND REGULATIONS**

The following are guidelines adopted by the Board and approved by the Architectural Review Committee (the "ARC") to specify their standards, requirements and thought process used in evaluating various exterior improvements. These guidelines may be amended from time-to-time as circumstances, conditions or opinions of the Board and ARC dictate. The ARC has the right to deny approval for a similar improvement based on the proximity of a property to a main boulevard or the visual relativity of the site to the overall development. As an example, a home located on the perimeter of the development may be permitted to have a certain styled storage building, whereas on a main entry boulevard and depending on the configuration of the lot, this same item may not be approved. The intent being to maintain overall integrity within areas of higher visual impact.

It should be noted that the ARC approval is required prior to the installation or construction of the improvement or change, and prior to new home construction. If an improvement is made without ARC approval, the Board of Directors has the legal right to enforce its removal. The following guidelines shall be applicable to all properties under the jurisdiction of the Association. These guidelines shall also encumber any future property which may be brought within the jurisdiction of the Association.

**A. APPLICATION PROCEDURE:**

Applications must explain the proposed improvement(s), and a copy of a detailed site plan must be attached. It is recommended that a copy of the survey received at closing be used so that relative distances and dimensions can be reviewed. Make sure to include all pertinent information and specifications along with a mailing address and telephone number. All applications must be in writing. The ARC will not respond to verbal requests. Mail and/or physically deliver your Modification Application or New Construction Application to the address listed in the current Management Certificate or on the Association website.

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It is the responsibility of the applicant to make sure to obtain the most current guidelines before proceeding with an application for any improvement.

**B. APPROVALS / DISAPPROVALS / PREPROCESSING PERIOD:**

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

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

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

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

Applications will only be accepted by the homeowner or property owner of record.

All approved projects must be initiated and completed with a timeline consistent with the Declaration. Homeowner may request an extension from the ARC based on extenuating circumstances such as inclement weather, contractor conflicts, etc.

**C. EASEMENTS:**

The ARC cannot approve any application if there is an encroachment into an easement until the homeowner provides a Consent for Encroachment or resubmits revised plans. Any non-portable structure in an easement is considered permanent, and thus an encroachment. Owners must secure a Consent to Encroachment or a Release of Easement from all affected utility companies. If proposed plans show an encroachment, a Consent for Encroachment must be obtained before applying to the ARC, or the application will be rejected. If there is an aerial easement on the lot, the utility company may permit placement of a permanent structure in the easement. It is the responsibility of the applicant to obtain a Consent for Encroachments.

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

**D. VARIANCES:**

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

similar nature will be approved, or that the request for a variance does not need to be submitted for approval to the ARC.

**E. INSPECTION:**

All construction, improvements, modifications, additions, or alterations are subject to inspection by the ARC.

**F. COMPLIANCE/NONCOMPLIANCE:**

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

It is expected that all residents of Mallard Crossing, Sections 1 and 2, will comply with the restrictions and requirements specified in that document. This includes the requirements to file an application for approval to the ARC for all proposed construction or modification of improvements as specified in the Declaration.

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

Unapproved and/or prohibited improvements are subject to removal or modification at the owners' expense, unless a variance is granted, or an approval is obtained owners should apply to the ARC for approval of any outstanding unapproved improvements.

**G. ENFORCEMENT:**

Upon any violation or attempt to violate any of the covenants, it shall be lawful for the Association or any other Lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent the person or persons from doing so and/or to recover damages or other dues for such violations. Failure by the Association or any owner to enforce any covenant or restriction shall in no event be deemed as a waiver of the right to do so thereafter.

**H. COMPLAINTS:**

Owners are encouraged to help maintain the beauty of Mallard Crossing, Sections 1 and 2. To this end, all have an obligation to conform to the Declaration and these ARC guidelines, and to ensure non-complying improvements come into compliance. Should you have a complaint regarding a violation, write to the ARC. All complaints will be handled in the same manner discussed under application Procedure.

**I. CONTROLLING DOCUMENTS:**

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

**J. ARCHITECTURAL REVIEW COMMITTEE AUTHORITY:**

Texas Property Code Section 209.00505, as amended and effective as of September 1, 2021, imposed certain processes and restrictions that the ARC is to adhere to as described below:

1. A person may not be appointed or elected to serve on the ARC if the person is:
  - a. a current Board member;
  - b. a current Board member's spouse; or
  - c. a person residing in a current Board member's household.
2. A decision by the ARC denying an application or request by an owner for the construction of improvements in the subdivision may be appealed to the Board. A written notice of the denial must be provided to the owner 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 application or improvements required as a condition to approval; and
  - b. inform the owner that the owner may request a hearing as described below on or before the 30th day after the date the notice was mailed to the owner.
3. The Board shall hold a hearing not later than the 30th day after the date the Board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required.
4. During a hearing, the Board or the designated representative of the Association and the owner or the owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the ARC in the notice provided to the owner.
5. The Board or the owner may request a postponement. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.
6. The Association or the owner may make an audio recording of the meeting.
7. The Board may affirm, modify, or reverse, in whole or in part, any decision of the ARC as consistent with the Declarations.

**K. GUIDELINES:**

**Section 1. Buildings.**

- 1.1. A "Dwelling" is defined as a structure or structures intended for single-family residential use (as defined in the Declaration). A Dwelling does not include an accessory building or a garage. It does not include any structure not attached such as a storage shed, gazebo or playhouse/fort. All buildings and other structures including, but not limited to, swimming pools, awnings, and any other additions, must comply with the building set back lines as set forth on the recorded plat.

- 1.2 An **“Improvement”** is defined as a building, fence, patio, pool, garage, paving, fencing, or any other structure or Improvement. No Improvement shall be constructed on a Lot except detached, single family residential Dwelling Units and other ARC approved Improvements.
- 1.3 **Building Setbacks.** Pursuant to the Declaration, no Improvements shall be located nearer to the front, side or rear property line than as shown on the plat. Article VII. paragraph C. of the Declarations described the Setback requirements.
- 1.4 **Height.** No Improvement shall exceed a reasonable height required for two (2) stories of living space (above finished grade), not to exceed thirty-six feet (36’) in height. No garage shall exceed the height of the Dwelling Unit.
- 1.5 **Garages.** Except as otherwise approved in writing by the ARC, or as otherwise specifically set forth in the Declaration, each Dwelling Unit shall be served by an enclosed garage large enough to provide parking for a minimum of two (2) cars, but no more than four (4) cars. Any such structures shall match the same design as the main residential structure and use the same or equivalent brick, siding and roofing materials so as to maintain a harmonious appearance. The conversion of garages to living area is expressly prohibited, unless the proposed conversion would result in a useable garage with a minimum of space for two (2) cars. Detailed plans of any proposed conversion of garage space must be submitted to and approved by the ARC prior to construction. No garages may be used for a living space.
- 1.6 **Roof requirements.**
- All buildings shall be roofed with composition shingles unless otherwise approved in writing by the Architectural Control Committee. Wood shingles are specifically prohibited for safety reasons.
  - Composition shingles must weigh at least 230 pounds per square and have a stated warranty of at least 25 years. Shingles must have a laminated design. Three-tab shingles are specifically prohibited except for use as a starter and cap rows.
  - New roofs do not need approval, but the new shingles must be as similar in color as what was previously on the house.
  - Prior to roofing, all existing materials must be removed down to clean decking. Any damaged or deteriorated decking must be replaced.
  - Ridge vents are encouraged, to improve ventilation, reduce attic temperature and reduce cooling costs, but are not required.

## **Section 2. Outbuildings.**

- 2.1 An “Outbuilding” is defined as any structure which is not attached to the main Dwelling unit or garage. This definition does not include bonafide additions to the main Dwelling unit or garages, but does include storage sheds, gazebos and playhouse/forts.
- 2.2 Gazebos, play sets, forts, tree houses and swing sets shall be constructed of wood and other harmonious materials with colors subject to ARC approval.

- 2.3 Sheds must be constructed of wood and composite singles that shall match color of the main residential structure. Storage sheds shall blend in harmony with surrounding homes and structures.
- 2.4 Sheds must not be taller than 12 feet at the highest point.
- 2.5 Any and all outbuildings shall be maintained properly and shall require ARC approval before being constructed.

**Section 3.      Patio Covers.**

- 3.1 Patio covers shall be constructed of materials which complement the main structure. In the event a patio cover is constructed, the roof of the patio cover shall be subject to the building setback lines in section 1.3 hereof.
- 3.2 Prefabricated covers made of aluminum may be approved providing they are of a color that substantially matches the Dwelling unit trim color. Unfinished aluminum will not receive ARC approval. All metal must be painted. Certain structures using wood framing may be allowed to go unpainted, provided insect resistant wood is used (such as cedar, redwood, etc.).
- 3.3 The entire patio cover and posts should be trimmed to match the Dwelling unit. Supports must be brick, painted wood or metal columns. Pipe is not allowed.
- 3.4 All patio covers must have a shingled roof.
- 3.5 The frame must be painted to match the trim of the Dwelling unit, regardless of whether treated or untreated wood is used.
- 3.6 Patio construction materials are as follows:
- a. Painted wood (to match trim of Dwelling unit);
  - b. Naturally rot and insect resistant woods (such as cedar and redwood) may be used. Staining or painting is not required. All other woods must be painted or stained to match trim of Dwelling unit.
- General Note: All patio cover materials, i.e., wood, lattice, brick, etc., must be completely framed so that no raw edges of material are visible.
- c. Patio shingles must match existing Dwelling unit shingles.

- 3.7 Patio covers may not encroach into any utility easement unless the utility companies involved have granted their written consent to such encroachment.
- 3.8 Patio covers must be situated on the Lot to provide drainage solely onto the owner's Lot.

**Section 4.      Room Additions.**

- 4.1 Exterior materials and colors of any room addition should match the Dwelling unit.
- 4.2 Detailed plans of any proposed room addition must be submitted to the ARC.

- 4.3 Room additions may not encroach into any utility easements.
- 4.4 ARC approval will depend on architectural style and layout of Dwelling unit, size of Lot, and how well room addition integrates with existing Dwelling unit. Plans for room additions must show room size in proportion to room dimensions of the Dwelling unit. Roof of addition must integrate with existing roofline so as to appear to have been part of the original Dwelling unit.
- 4.5 Building permits as required by all of the requisite governmental jurisdictions (city, county, etc.) must be submitted with the application. In some instances, the ARC will grant approval with the provision that a copy of the permit must be received by the ARC within thirty (30) days of the approval letter and prior to construction beginning.

**Section 5. Exterior Painting.**

- 5.1 Every Dwelling unit should maintain an Earthtone color scheme harmonious with the community. If a homeowner intends to repaint in accordance with an original color scheme, or to rebuild in accordance with original plans and specifications, an application must be submitted, and no work begun until approved by the ARC.
- 5.2 Color changes must be approved by the ARC. Color of brick used on the Dwelling unit and color of neighboring Dwelling units are considerations.
- 5.3 Exterior paints and stains for each Dwelling unit shall be selected to compliment or harmonize with the colors of the other materials with which they are used.
- 5.4 Wood siding and trim should generally stay within the colors of tan or cream. A color sample must be submitted to the ARC for approval before painting or staining may begin. The ARC retains the right to define the color shades as acceptable or not.
- 5.5 Extremely bold colors, primary colors, yellow, blue, green, or pastels are prohibited.
- 5.6 Front doors must be maintained. They may be stained a natural wood color or painted the same color as the Dwelling unit trim. Other paint colors may be approved on a case-by-case basis.

**Section 6. Driveway Extensions/Sidewalks/Cement Slabs**

- 6.1 An application must be submitted for any driveway removal, addition or modification.
- 6.2 Driveways can be widened permanently with cement but cannot extend out further than the garage on each side with approval.
- 6.3 A cement walkway can be poured from the front of house around the side to the back gate with approval.
- 6.4 Driveway appearance and structure must be maintained in a manner acceptable to the ARC.
- 6.5 The pouring of additional cement slabs must be approved by the ARC, unless the cement slab is only in a backyard.

**Section 7. Solar Energy Devices.**

7.1 Solar may be installed and placed in a location where they will receive the most sunlight based on the solar company's analysis.

These guidelines are effective upon recordation in the Public Records of Harris County, Texas, and supersede any guidelines which may have previously been in effect. Except as affected by the TEXAS PROPERTY CODE and/or by these guidelines, all other provisions contained in the Declarations or any other dedicatory instruments of the Association shall remain in full force and effect.

This is to certify that the foregoing Architectural Review Committee Guidelines were adopted by the Board of Directors, effective as of March 1, 2023, until such date as it may be modified, rescinded or revoked. The Board of Directors hereby approves and authorizes the above Policy.

Approved and adopted by the Association on this 1 day of March, 2023.

Mallard Crossing Community Association, Inc.

By: Bridget Nilsson  
Bridget Nilsson, President

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS     §

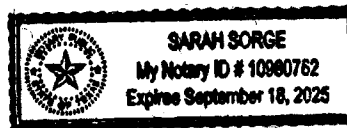
Before me, the undersigned authority, on this day personally appeared Bridget Nilsson, President of Mallard Crossing Community Association, Inc., a Texas non-profit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he/she had executed the same as the act of said corporation for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 1 day of March, 2023.

Sarah S  
Notary Public, State of Texas

**After recording, please return to:**

Beard & Lane, P.C.  
10611 Grant Road  
Houston, Texas 77070  
Tel: (281) 897 8848  
Fax: (281) 897 8850



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e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
TENESHIA HUDSPETH  
COUNTY CLERK  
Fees \$46.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically  
and any blackouts, additions or changes were present  
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or  
use of the described real property because of color or  
race is invalid and unenforceable under federal law.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
File Number Sequence on the date and at the time stamped  
hereon by me; and was duly RECORDED in the Official  
Public Records of Real Property of Harris County, Texas.



*Teneshia Hudspeth*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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