

STATE OF TEXAS     X  
  X  
COUNTY OF JACKSON   X

RESTRICTIONS, CONDITIONS AND COVENANTS  
OF CAPE CARANCAHUA SUBDIVISION, BUSINESS  
PARK, A SUBDIVISION OUT OF THE NANCY  
McFARLAND LEAGUE ABSTRACT #2, JACKSON  
COUNTY, TEXAS FILED AS 165-A IN THE PLAT  
RECORDS OF JACKSON COUNTY, TEXAS.

Cape Carancahua, Inc., the developer of Cape Carancahua Business Park for the benefit of all of the lot owners does hereby adopt the following restraints, covenants and conditions that shall apply to all lots in Cape Carancahua Business Park.

§ 1.01 No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or the subdivision. No person shall discharge any gun, pistol or firearm, air-rifle, air-pistol, or bow and arrow, activated by whatever means including gun powder, compressed air or gas, or spring, or cannon cracker or torpedo as the same are defined by laws of the State of Texas and no person shall discharge firecrackers on, over, or across any lot, street, or easement within the Subdivision.

§ 1.02 No cows, horses, sheep, goats, hogs, chickens, ducks, rabbits, or any other animals, or fowls or poultry, except household pets, shall be kept, staked, pastured or permitted on any lot in the Subdivision.

§ 1.03 No part of the Subdivision or any lot herein shall be used for the dumping of rubbish, trash or other waste. All trash, garbage, and other wastes shall be kept in a sanitary container and shall be disposed of at regular intervals consistent with good housekeeping. All household and yard tools and equipment shall be kept out of sight in enclosed storage areas except when in use. All containers, incinerators or other equipment for the storage or disposal of trash and/or wastes shall be kept clean and in good repair.

§1.04 No use of any lot shall be made for any purpose that would result in the pollution of the waters above, below or adjacent to the surface of the Subdivision.

§1.05 No excavation for stone, gravel, or earth shall be made thereon except in connection with the erection of improvements.

§ 1.06 The owners or occupants of all lots of the Subdivision shall at all times keep all weeds and grass thereupon cut in a sanitary, healthful and attractive manner, and shall in no event use any lot for storage of material and equipment except when completely enclosed with a six (6) foot privacy fence. Such owner or occupants shall not permit the accumulation of garbage, trash, or rubbish of any kind thereon. In the event of default on the part of the owner or occupant of any lot in the Subdivision in observing the above stated requirements, or any of them, employees or agents of the developer, or any lot owner in the Business Park, its and their successors and assigns may, without becoming liable to the owner or occupancy, in trespass or otherwise, enter upon such lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash, rubbish, etc. so as to place said lot in a neat, attractive, healthful and sanitary condition, and may bill either the owner or occupant of such lot for the cost of such work. The owner or occupant as the same may be, agrees by the purchase or occupation of any lot in the Subdivision to pay such bill or statement immediately upon receipt thereof.

## Section II.

### BUILDING RESTRICTIONS

§2.01 No building, toolhouse, outbuildings, culvert, fence or other structure or improvement shall be erected, placed or altered on any lot until two copies of the construction plans and specifications, including specifications of all exterior materials and a plan showing the proposed location of the structure, have been submitted to and approved in writing by the Developer. If the construction is not commenced within three (3) months of such approval, the approval shall be null and void unless an extension is granted in writing.

§2.02 No house may be constructed or covered with tar paper, metal or any other material other than that customarily used for the erection of houses, except that pier houses and boat houses, that are built on the water, may be of a new corrugated sheet metal. All houses shall have a minimum of one thousand (1000) square feet of living area, not counting stoops and porches. All construction must be of new material, except stone, brick, or other materials used for an antique decorative effect if such use is approved in writing by the Developer. No sheet metal or metal panels shall be used in any outbuildings unless such sheet metal panels shall have factory applied paint or be factory anodized. Any metal outbuildings, storage building or toolhouse not built by a commercial manufacturer shall be of design, appearance, quality and materials comparable to those built by commercial manufacturers.

§2.03 All buildings shall be completed on the outside within six (6) months after construction is commenced, and if wood, they must have at least two coats of high grade paint or stain applied to the exterior, except where rough cedar siding is wood.

§2.04 All dwellings and other structures shall be kept and maintained in good repair and must be painted when necessary to preserve their attractiveness.

§2.05 No outbuildings, basement or garage erected on any lot shall at any time be used for a dwelling or camping temporarily or permanently.

§2.06 Mobile homes of any type shall not be permitted in the Subdivision, on any basis.

§2.07 Pickup campers are not to be taken off the truck and left on any lot.

§2.08 Metal storage buildings shall not be attached to a house. Old school buses or similar vehicles shall not be permitted.

§2.09 Each and every private driveway to any lot in the Subdivision shall have a drainage structure there under and parallel to the roadway which provides an opening sufficient in size and depth to permit free flow of water to the end that the same will not cause the impounding of water on other lots in the Subdivision, and will not interfere with the drainage in the Subdivision.

§2.10 All structures shall comply with all applicable laws and building codes, as well as all the restrictions herein.

§2.11 No building shall be placed in any utility easement as shown on the Plat Map of the Subdivision. No building shall be located nearer than five (5) feet to any side lot line, nor nearer to the rear lot line than ten (10) feet nor nearer to the front line than twenty (20) feet; for the purpose of installation or maintenance of utilities, including but not limited to gas, water, electricity, telephone, drainage and sewage and any appurtenances to the supply lines thereof including the right to remove and/or trim trees, shrubs or plants. This reservation is for the purpose of providing for the practical installation of such utilities as and when any public or private authority or utility company may desire to service said lots. Should utilities be installed in the rear property easement as herein reserved, each lot owner or purchaser agrees to install a gate in any fence that shall be constructed on such easement for utility company access to such lines, etc. All lots are subject to easements and restrictions now of record and are subject to any applicable zoning rules and regulations.

§2.12 Any reasonable damage by utility companies to any fence located in any utility easement shall be borne.

by the lot owner or purchaser and not by the utility company.

§2.13 No removal of trees or excavation of any materials other than for landscaping, construction of buildings, driveways, etc., will be permitted without the written permission of the Developer.

§2.14 No water wells may be drilled on any lot.

§2.15 No lot purchase or owner of a waterfront lot in the Subdivision shall erect a dock, pier or piling adjacent to such a lot and or on in Carancahua Bay without first obtaining written approval from the Developer and without first obtaining permits for the State Land Commission, the Texas Game and Fish Commission and any and all other governmental authorities having jurisdiction over such matters.

### Section III.

#### WATER AND SEWAGE DISPOSAL SERVICE

§3.01 No outside toilet or privy shall be erected or maintained in the Subdivision. The materials installed in, and the means and methods of assembly of all sanitary plumbing shall conform with the requirements of the Health Department of Jackson County and of agencies of the State of Texas. No septic tank or lateral line will be placed within ten (10) feet of any water line. No sewage, nor effluent shall be disposed of, upon nor under any lot in the Subdivision except in a septic system or other approved system meeting the aforesaid requirements. Before any work is done, approval of said location must be first obtained from the Developer.

### Section IV.

#### GENERAL PROVISIONS

§4.01 These protective covenants shall constitute covenants running with the land and shall be binding on and inure to the benefit of the owners and developer, their successors and assigns, and all persons claiming by, through or under them until January 1, 1995, after which time they shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the lot owners in the Subdivision has been recorded, agreeing to a change therein in whole or in part.

§4.02 The protective covenants may be amended at any time after March 15, 1995, by an instrument signed by the Developer, together with a majority of the lot owners in the Subdivision.

§4.03 The restrictive covenants may be enforced by the Developer or any lot owner in the Subdivision either by proceeding for injunction or to recover damages for breach thereof or both.

§4.04 Anyone who has executed a contract for purchasing a lot in the Subdivision shall be deemed for all purposes hereunder to be the owner of such lot if they have under such contract the right to possession of such lot, whether or not such right is conditional or limited.

§4.05 If any provision or portion of these restrictive covenants shall be declared invalid by judgment, court order or otherwise, it shall not effect or invalidate any other provisions or portions thereof.

§4.06 Failure to enforce anyone or more provisions hereof shall not constitute a waiver thereof or invalidate such provision or provisions.

STATE OF TEXAS           X  
  X  
COUNTY OF JACKSON    X

AMENDMENT TO RESTRICTIONS, CONDITIONS AND COVENANTS OF  
CAPE CARANCAHUA SUBDIVISION  
BUSINESS PARK

WHEREAS On March 13, 1985, Cape Carancahua, Inc. filed of record one certain Restrictions, Conditions and Covenants of Cape Carancahua Subdivision Business Park in Volume 662, Pages 488-492 of the Deed Records of Jackson County, Texas and

WHEREAS, I, John Curtis White, the undersigned, as President of Cape Carancahua, Inc. wish to further amend said Restrictions, Conditions and Covenants

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That the Restrictions, Conditions and Covenants of Cape Carancahua Subdivision, Business Park, are hereby amended in the following particulars:

Paragraph 1.06 is hereby amended to read: The owners or occupants of all lots of the Business Park shall at all times keep all weeds and grass thereupon cut in a sanitary, healthful and attractive manner, and shall in no event use any lot for storage of material and equipment except when completely enclosed with a six (6) foot privacy fence. Such owner or occupants shall not permit the accumulation of garbage, trash or rubbish of any kind thereon. In the event of default on the part of the owner or occupant of any lot in the Business Park in observing the above stated requirements, or any of them, employees or agents of the Cape Carancahua Property Owners' Association, its and their successors and assigns may, without becoming liable to the owner or occupancy, in trespass or otherwise, enter upon such lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash, rubbish, etc. so as to place said lot in a neat, attractive, healthful and sanitary condition, and may bill either the owner or occupant of such lot for the cost of such work. The owner or occupant as the same may be, agrees by the purchase or occupation of any lot in the Cape Carancahua Business Park to pay such bill or statement immediately upon receipt thereof.

Paragraph 2.01 is hereby amended to read: No building, toolhouse, outbuildings, culvert, fence or other structure or improvement shall be erected, placed or altered on any lot until two copies of the construction plans and specifications, including specifications of all exterior materials and a plan showing the proposed location of the structure, have been submitted to and approved in writing by the Cape Carancahua Property Owners' Association. If the construction is not commenced within three (3) months of such approval, the approval shall be null and void unless the extension is granted in writing.

Paragraph 2.02 shall be amended to read: No house may be constructed or covered with tar paper, metal or any other material other than that customarily used for the erection of houses, except that pier houses and boat houses, that are built on the water, may be of a new corrugated sheet metal. All houses shall have a minimum of one thousand (1000) square feet of living area, not counting stoops and porches. All construction must be of new material, except stone, brick, or other materials used for an antique decorative effect if such use is approved in writing by the Cape Carancahua Property Owners Association. No sheet metal or metal panels shall be used in any outbuildings unless such sheet metal panels shall have factory applied paint or be factory anodized. Any metal outbuildings, storage building or tool house not built by a commercial manufacturer shall be of design, appearance, quality and materials comparable to those built by commercial manufacturers.

Paragraph 2.13 shall be amended to read: No removal of trees or excavation of any materials other than for landscaping, construction of buildings, driveways, etc., will be permitted without the written permission of Cape Carancahua Property Owners' Association, Inc.

Paragraph 3.01 shall be amended as follows: The last sentence shall be omitted and replaced with "Before any work is done, approval of said location must be first obtained from the Cape Carancahua Property Owners' Association, Inc." Except for this change, article 3.01 remains unchanged.

Addition of Paragraph 3.02: In the event a governmental authority should require the installation of sanitary sewers and appurtenances in part or all of the Subdivision, the purchasers and owners of the lots in the Business Park agree to join with the Cape Carancahua Property Owners' Association, Inc. and/or the Cape Carancahua Water Supply Corporation in the formation of a utility district to furnish and provide such required services and each lot purchaser and owner does appoint the Cape Carancahua Property Owners' Association and/or the Cape Carancahua Water Supply Corporation as their lawful attorney-in-fact to execute any and all instruments and take any and all necessary actions in their behalf to accomplish the creation of a utility district and the construction of the required improvements. Each lot purchaser and owner further agrees to pay monthly charges for the use of such system as established by the Texas Utilities Commission or its successor.

When and if a sewage treatment plant and collection system for the service of the Subdivision is provided, it shall be used as the sole means of sewage disposal for such premises.

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is hereby recorded in  
JERRY  
COUNTY CLERK TEXAS  
DEPUTY

The addition of Paragraph 3.03: The Cape Carancahua Property Owners' Association reserves unto itself, its successors and assigns, or any governmental authority having jurisdiction there over, the right and privilege and an easement to use all streets and roadways, waterways, public areas and easements shown on the recorded plat of the Cape Carancahua Business Park, for utility purposes and surface drainage. In addition, Cape Carancahua Property Owners' Association, Inc. reserves unto itself, its successors and assigns, an easement for utility purposes, in , on, over and under a strip twenty (20) feet in width along the front of each lot in the Business Park and ten (10) feet in width along the rear and five (5) feet in width along each side of each and every lot in the Business Park.

Paragraph 4.01 shall be amended to replace, the word "Developer" with "Cape Carancahua Property Owners' Association, Inc."

Paragraph 4.02 shall be amended to read "The protective covenants may be amended at any time, after March 15, 1995 by an instrument signed by Cape Carancahua Property Owners' Assoc. together with a majority of the lot owners in the Business Park.

Paragraph 4.03 shall be amended to replace the word "Developer" with "Cape Carancahua Property Owners' Association, Inc."

The addition of Paragraph 4.07: Cape Carancahua Property Owners' Association shall have the right to enforce any and all of the protective covenants contained herein, and pursuant thereto has the right to contract for the performing of services which will remedy the breach of any covenant herein and assess the cost of said services against the particular lot owner involved. Each instrument of conveyance of any lot in the Subdivision shall make reference to these Restrictions and shall contain a Vendor's Lien in favor of Cape Carancahua Property Owners' Association, Inc. securing the performance of these Restrictions.

The addition of Paragraph 4.08: Cape Carancahua Property Owners' Association, Inc. shall approve in advance any construction proposed for any lot in the Business Park. The Association shall determine whether the same meets the specific requirements of these protective covenants. In addition, and with limitation, the Association shall have the right to approve the type and size of the proposed structure, the quality of materials and workmanship, the harmony of the external design in relation to existing structures, and the location with respect to the topography of the property. The Association shall formulate an established plan with regard to all such matters and shall make the same available to all lot owners.

The addition of Paragraph 4.09: Cape Carancahua Property Owners' Association, Inc. shall have the power in specific cases where, owing to special conditions, enforcement of one or more of these protective covenants will result in hardship to the lot owner, to make a special exception thereto, and may substitute other conditions therefore, so that the spirit of these protective covenants will be preserved.

EXECUTED on this 24th day of April, 1995.

CAPE CARANCAHUA, INC.  
 BY: John Curtis White, pres  
 John Curtis White, President

CARANCAHUA BUSINESS PARK  
 to be the President of Cape

STATE OF TEXAS       X  
                                   X  
 COUNTY OF JACKSON   X

The foregoing AMENDMENT TO RESTRICTIONS, CONDITIONS AND acknowledged before me by John Curtis White known to me this the 24th day of April, 1995.



Martha E. Law  
 Notary Public in and for the State of Texas

CARANCAHUA BUSINESS PARK

to be the President of Cape

COVENANTS OF  
 Please return recorded instrument to:

Cape Carancahua Property Owners' Association, Inc.  
 HC02, Box 214  
 Palacios, TX 77465

CERTIFIED COPY CERTIFICATE  
 STATE OF TEXAS  
 COUNTY OF JACKSON

The above and foregoing is a full, true and correct photographic copy of the original record now in my lawful custody and possession, as the same is filed/recorded in the public records of my office. I hereby certify on \_\_\_\_\_ 1995



MARTHA KNAPP  
 COUNTY CLERK  
 JACKSON COUNTY, TEXAS  
 BY: Betty Kallus CLERK  
 BETTY KALLUS