

# MONTGOMERY TRACE PROPERTY OWNERS ASSOCIATION

## STANDARD PRACTICE BULLETIN

### PROPERTY OWNER'S RESPONSIBILITY DEPOSIT

#### I. POLICY

Owners of property in Montgomery Trace are required to place a responsibility deposit (Deposit) with the Montgomery Trace Property Owners Association (Association) in the sum of \$1,000.00 when submitting for ACC approval of a construction project for a residence, garage, culvert, driveway(s), and septic system. The Deposit will be refunded to the property owner upon completion of construction less any sum required to secure compliance with the Deed Restrictions, ACC standards, the approved plans and any other conditions of plan approval.

#### II. PURPOSE

The primary purpose of the Deposit is to ensure that property owners are aware of their responsibility as neighbors to abide by the Covenants during the construction of their primary residence, culvert, construction driveway, permanent driveway and septic system. The secondary purpose of the Deposit is to provide the Association with a source of funds designated specifically for use in pursuing violations resulting from non-compliance with the Deed Restrictions, ACC standards, the approved plans and any conditions of plan approval.

#### III. RESPONSIBILITY

The Board of Directors (Board) of the Association has overall responsibility for this Standard Practice and has delegated certain specific operational tasks as indicated elsewhere in this bulletin.

The Board has the sole responsibility for authorizing the expenditure of funds required to secure compliance with the Deed Restrictions, ACC standards, the approved plans and any conditions of plan approval.

#### IV. PAYMENT, COLLECTION AND ACCOUNTING OF THE PROPERTY OWNER'S RESPONSIBILITY DEPOSIT

##### A. Payment

1. The property owner of record is responsible to pay the Deposit at the time owner submits the *Request for ACC Approval* package to the offices of the Association's property management company (Property Manager).
2. The Deposit shall be in the form of a) personal check signed by the property owner of record, or b) cashier's check issued by Woodforest Bank or Guaranty Bank.
3. Personal checks which have been signed by any party other than the property owner of record, including the builder, are not acceptable.
4. Deposits in the form of cash are not acceptable.
5. The Deposit may not be turned in at an ACC or Board meeting.

##### B. Collection and Accounting

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- 2.2 The Chairman of the ACC will also forward a copy of this modified e-mail to the Board member responsible for deed restriction compliance.
3. The ACC liaison will review the ACC file; inspect the property; and forward the same e-mail message back to the Chairman of the ACC with "Yes" or "No" answers to the four (4) questions. If there are deficiencies, the ACC liaison shall provide details and what actions are required to make corrections.
4. The Board member responsible for Deed Restriction enforcement shall review his/her files and forward the same e-mail message back to the Chairman of the ACC indicating whether or not there are deed restriction issues to be considered before a refund is made.
5. Based on the information received, the Chairman of the ACC shall make the final determination whether or not the request for refund is to be approved or denied. Section 5.1 applies if the request is approved. Section 5.2 applies if the request is denied.

#### 5.1 – Request Approved

- 5.1.a The Chairman of the ACC shall forward a modified copy of the same e-mail message mentioned above to the Property Manager. The modification shall consist of the following specific language.  
**"The project is complete, there are no Deed Restriction or ACC issues, final approval is granted, the Property Manager is authorized to sign the request form on behalf of the Board and the ACC, and the refund check is to be issued."**
- 5.1.b The Property Manager shall prepare the refund check and forward it to the property owner via regular mail.
- 5.1.c The Property Manager shall attach the authorizing e-mail to the Refund Request Form and place both documents in the property owner's unit file.

#### 5.2 – Request Denied

- 5.2.a The Chairman of the ACC shall forward a modified copy of the same e-mail message mentioned above to the Property Manager. The modification shall consist of the following specific language along with specific information about what deficiencies must be corrected by the property owner.  
**"The project is not complete, there are Deed Restriction issues, or ACC issues, or both, at the property. Send the property owner a letter indicating that the request for refund will not be approved until the specific deficiencies have been corrected AND he has submitted a new Request for Refund form indicating that all deficiencies have been corrected."**
- 5.2.b The Property Manager shall prepare an appropriately worded letter addressed to the property owner explaining the outstanding issues along with needed corrective action by the property owner. **Before mailing, this letter shall be forwarded by e-mail to the Chairman of the ACC for review and comment.**
- 5.2.c The Chairman of the ACC has the responsibility to approve the letter or make whatever changes are needed. The approved letter shall be e-mailed to the Property Manager for final typing and mailing to the property owner.
- 5.2.d The property owner has the responsibility to correct whatever deficiencies are outlined in the letter.
- 5.2.e The property owner has the sole responsibility to fill out and submit a completely new Refund Request Form in accordance with **Section V** above.
- 5.2.f The process repeats itself beginning with **Item VI, 1** above.

**VII. REFUND PROCESS – OWNER DECIDES TO CANCEL PROJECT AFTER DEPOSIT HAS BEEN MADE**

This section shall apply to the special case in which a property owner has paid the required Deposit and subsequently makes the decision to cancel the project altogether. The refund process shall be the same as described above, with the following noted changes.

1. Section V shall be followed exactly as written above, the only exception being that the property owner shall note on the Refund Request Form that the project is being cancelled.
2. Item VI, 1 above is changed to read as follows:  
**A request for refund form was received on \_\_\_\_\_ from \_\_\_\_\_ at”**  

(date) (owner's name)

\_\_\_\_\_. The owner states that he has decided to cancel the project and  
(Section, Block and Lot)

**that he wants to have the Deposit refunded.**
3. Item VI, 2 above is changed to read as follows:  
**Upon receipt, the Chairman of the ACC will immediately modify the same e-mail message by adding the following four (4) questions, and forward it to the ACC Liaison in the appropriate section.**
  - a. **“Has any construction activity been started on the property?”**
  - b. **“If so, has the property been returned to a satisfactory condition?”**
  - c. **“Are there any open ACC issues to consider?”**
  - d. **“Does the ACC recommend that the responsibility deposit be refunded at this time?”**
4. Item VI, 5.1.a above is changed to read as follows:  
**The Chairman of the ACC shall forward a modified copy of the same e-mail message mentioned above to the Property Manager. The modification shall consist of the following specific language.**  
**“Project activity has stopped and there are no Deed Restriction or ACC issues.**  
**Final approval is granted, the Property Manager is authorized to sign the request form and the refund check is to be issued.”**
5. Item VI, 5.2.a above is changed to read as follows:  
**The Chairman of the ACC shall forward a modified copy of the same e-mail message mentioned above back to the Property Manager. The modification shall consist of the following specific language along with specific information about what deficiencies must be corrected by the property owner.**  
**“The project has not been cancelled and there are Deed Restriction issues, or ACC issues, or both, at the property. Send the property owner a letter indicating that the request for refund will not be approved until the specific deficiencies have been corrected AND he has submitted a completely new Refund Request Form.”**

**VIII. TIME REQUIRED TO ISSUE REFUND CHECKS**

The objective is to get refund checks mailed to the owner within three (3) weeks of the date the Request for Refund form is received in the office of the Property Manager. Achieving this objective is, however, dependent on the personal work schedule of the volunteer ACC liaison who must make the required inspection and on the fact that the Property Manager prepares checks around the 1<sup>st</sup> and 15<sup>th</sup> of each month. Therefore, the time required to mail a refund check might be as long as four (4) weeks depending on the circumstances.

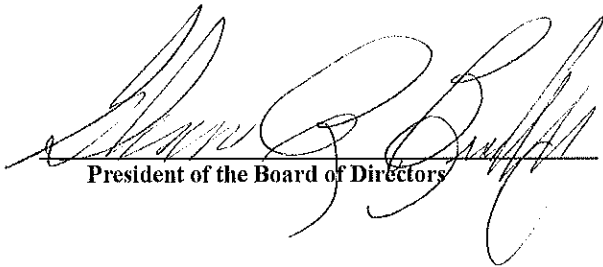
**IX. EXPENDITURE OF DEPOSIT FUNDS**

Funds obtained by the collection of Deposits shall only be used to secure compliance with the Deed Restrictions, ACC standards, the approved plans and any conditions of plan approval at the sole discretion of the Board.

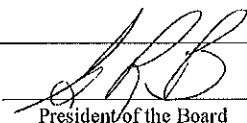
In the event that amounts less than the Deposit are expended by the Board to secure compliance during the course of a construction project, the Board shall be obligated to return the remaining balance of the Deposit to the property owner upon satisfactory completion of the project in accordance with the Deed Restrictions, ACC standards, the approved plans, any conditions of plan approval, and the provisions of this Standard Practice Bulletin.

This Standard Practice Bulletin shall not be construed in any way to limit the resources or funds the Board may expend to secure compliance with the Declaration of Covenants, Conditions and Restrictions in all ten (10) Sections of Montgomery Trace Subdivision.

**This Standard Practice Bulletin pertaining to the Property Owner's Responsibility Deposit was adopted and put into full effect by majority vote of the Board of Directors at its regular scheduled meeting on 21 October, 2004.**

  
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President of the Board of Directors

Date: 31 Oct, 2004

Approved:   
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President of the Board