# COTTAGE POINTE ASSOCIATION

## Architectural Review Committee (ARC) Application

**5071 Gull Road**
**Kalamazoo, MI 49048**
cphoaassoc@gmail.com

*Application for Exterior Building Modification*

## BEFORE YOU BEGIN

- Please read the instructions on this form before completing the application.
- Please review the bylaws and master deed for guidance on what changes are permitted.
- **Do NOT proceed with your request until approval is granted.**
- **ALL** requests **MUST** be submitted for approval.
- An accurate detailed sketch **MUST** be submitted for **ALL** modification requests.
- Approvals are **VALID** for a period of **3 MONTHS** from the date of Approval.
- Every owner of record must sign the Indemnification and Hold Harmless Agreement at the end of this application. Applications without a signed Agreement are incomplete.

**Email or mail application form and any and all documentation to the address listed above.**

## SECTION 1: HOMEOWNER INFORMATION

| | |
|---|---|
| **Date** | |
| **Homeowner's Name** | |
| **Address** | |
| **Phone** | |
| **Email** | |

## SECTION 2: TYPE OF EXTERIOR BUILDING MODIFICATION REQUEST

*Describe the type of exterior building modification requested:*

| | |
|---|---|
| | |

| | | | |
|---|---|---|---|
| **Estimated Start Date** | | **Estimated Completion Date** | |

## SECTION 3: REQUIRED SKETCH

***NOTE: An accurate detailed sketch MUST be submitted for ALL modification requests.***

☐ Accurate detailed sketch attached (or drawn in Section 6)

☐ Any and all other supporting documentation attached

## SECTION 4: HOMEOWNER ACKNOWLEDGMENT & SIGNATURE

I understand that I will be responsible for the installation, maintenance, modification and replacement of any approved changes at my expense and will also be responsible for any damage caused to any areas and/or structures. If the condominium is subsequently sold, the new owner must be informed of all modifications and will become his/her responsibility to maintain. The seller and buyer must sign the Exterior Modification Agreement and return the signed copy to the association.

_____ _____

*Homeowner Signature* *Date*

_____ _____

*Homeowner Signature* *Date*

## FOR ASSOCIATION USE ONLY

| | | | |
|---|---|---|---|
| **Received** | | **Reviewed** | |
| **Completed Review** | | **Date of Decision** | |

**Decision:** ☐ Approved ☐ Denied

_____ _____

*Approved By (Signature)* *Date*

_____ _____

*Denied By (Signature)* *Date*

*Notes:*

***NOTE: ALL requests MUST be submitted for approval. Approvals are VALID for a period of <u>3 MONTHS</u> from the date of Approval.***

## SECTION 5: HOMEOWNER'S RECEIPT OF ASSOCIATION'S APPROVAL OR DENIAL

_____ _____

*Homeowner Signature* *Date*

## SECTION 6: SKETCH

**Property Address:** _____

*Draw an accurate detailed sketch of the proposed modification. Show its size and dimensions, its location on the home or Unit, and the distances to the home and to the Unit lines. Include existing structures that are affected. A separate sketch, photos, or brochures may be attached instead.*

# COTTAGE POINTE ASSOCIATION

## Architectural Review Committee Application Addendum

## INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

5071 Gull Road, Kalamazoo, MI 49048 | cphoaassoc@gmail.com

*Every owner of record must sign this Agreement and submit it with the ARC Application. The Association may decline to review an Application until all owners have signed. Applications without a signed Agreement are incomplete.*

| | | | |
|---|---|---|---|
| **Applicant Name(s)** | | **ARC Application #** | |
| **Property Address** | | **Lot / Unit #** | |
| **Tax Parcel #** | | **Phone** | |
| **Email** | | **Contractor Name** | |
| **Contractor Phone** | | **Contractor License #** | |
| **Est. Start Date** | | **Est. Finish Date** | |

**Description of Project (or see attached ARC Application):**

| |
|---|
| |

## OWNERSHIP CERTIFICATION

*List every owner of record shown on the most recent recorded deed, including a spouse, co-owner, trust, or entity. A tenant, occupant, or contractor may not sign as Homeowner.*

**Title to the property is held as (check one):**

☐ Sole owner ☐ Married couple (tenants by the entirety) ☐ Joint tenants

☐ Tenants in common ☐ Trust ☐ LLC or corporation ☐ Estate

☐ Land contract (seller: _____) ☐ Other: _____

| Owner of Record (exactly as shown on the deed) | Relationship to Applicant | Signing Below? |
|---|---|---|
| 1. | | ☐ Yes ☐ No |
| 2. | | ☐ Yes ☐ No |
| 3. | | ☐ Yes ☐ No |
| 4. | | ☐ Yes ☐ No |

## AGREEMENT

In consideration of the Cottage Pointe Association (the "Association") reviewing, processing, and/or approving the Architectural Review Committee application (the "Application") for the improvement, modification, installation, or activity described above and in the Application, including all plans, drawings, and specifications submitted with it (the "Project"), each person or entity signing below (individually and collectively, the "Homeowner") acknowledges and agrees as follows:

**1. Indemnification and Hold Harmless.** To the fullest extent permitted by law, the Homeowner shall indemnify, defend, and hold harmless the Association, its Board of Directors, the Architectural Review Committee and all other committees, and its officers, members, managing agents, employees, and volunteers (collectively, the "Indemnified Parties") from and against any and all claims, suits, demands, causes of action, liabilities, liens, fines, damages, losses, costs, and expenses, including reasonable attorneys' fees, expert fees, and court costs, arising out of, resulting from, or in any way connected with the design, review, approval, construction, installation, maintenance, repair, use, existence, or removal of the Project, including any act or omission of the Homeowner or the Homeowner's contractors, subcontractors, suppliers, agents, family members, guests, or invitees. This obligation does not apply to the extent a loss is caused by the sole negligence, gross negligence, or willful misconduct of an Indemnified Party. The Association may select its own legal counsel, at the Homeowner's expense, for any claim covered by this Section.

**2. Release of Claims.** To the fullest extent permitted by law, the Homeowner releases and forever discharges the Indemnified Parties from any claim the Homeowner now has or may later have arising out of the review, approval, conditional approval, denial, inspection, or enforcement of the Application or the Project, except to the extent caused by the gross negligence or willful misconduct of an Indemnified Party.

**3. Assumption of Risk.** The Homeowner assumes all risk associated with the Project, including the risk of property damage, personal injury, or death to the Homeowner, the Homeowner's household, contractors, subcontractors, suppliers, guests, invitees, and any third party.

**4. Damage to Common Areas, Neighboring Property, and Infrastructure.** The Homeowner is financially responsible for any damage to the Association's common areas, entrances, roads, sidewalks, landscaping, irrigation, drainage systems, utilities, or neighboring properties caused directly or indirectly by the Project or by anyone performing work on the Homeowner's behalf, including damage caused by delivery vehicles and equipment. The Homeowner shall repair such damage, to the Association's reasonable satisfaction, within 30 days after notice from the Association, or sooner if the damage creates a safety hazard. If the Homeowner fails to do so, the Association may perform the repair and charge the full cost, including administrative and legal costs, to the Homeowner as an individual assessment collectible in the same manner as other assessments under the Association's governing documents, including by lien where permitted.

**5. No Warranty or Representation by the Association.** Any approval by the Association is limited to review of the Project for conformity with the Association's governing documents and architectural and aesthetic standards. Approval does not constitute a warranty, endorsement, certification, or representation of any kind regarding the structural integrity, safety, engineering, design, workmanship, materials, drainage, code compliance, or fitness of the Project, or the qualifications of any contractor. Neither the Association nor any Indemnified Party shall be liable for any defect in the plans or the completed Project, or for any loss resulting from the approval, conditional approval, or denial of the Application. Approval applies only to the Project as described and may not be transferred to a different project or property.

**6. Permits, Codes, and Utilities.** The Homeowner is solely responsible for determining which permits, licenses, inspections, and approvals are required by any local, county, state, or federal authority, and for obtaining them before work begins. The Homeowner shall provide copies of required permits to the Association upon request. All work shall comply with applicable laws, building codes, zoning ordinances, setback requirements, and recorded easements. Before any digging or excavation, the Homeowner or the Homeowner's contractor shall contact MISS DIG 811 to have underground utilities marked.

**7. Contractors and Insurance.** The Homeowner shall use properly licensed and insured contractors where required by law, and is responsible for the conduct of all contractors and their workers while in the community. Upon request, the Homeowner shall provide certificates of general liability insurance and workers' compensation insurance for each contractor, and the Association may require that it be named as an additional insured. The Homeowner shall maintain homeowner's insurance that covers the Project.

**8. Conditions of Approval.** The Homeowner agrees that:

(a) The Project shall be built strictly according to the plans and specifications approved by the Association, together with any conditions stated in the approval. Any change to the approved plans, materials, colors, or location requires separate written approval from the Association before the change is made.

(b) Unless otherwise stated in the approval, work shall begin within 90 days and be completed within 180 days after the date of approval. If work does not begin within that time, the approval expires and a new Application is required.

(c) Work hours, construction parking, material storage, dumpsters, portable toilets, and debris removal shall comply with the Association's rules. The job site shall be kept clean and safe, and debris shall be removed from roads and common areas daily.

(d) The Project shall not alter the grading or drainage of the lot in a way that adversely affects neighboring properties, common areas, or stormwater systems, and shall not encroach on common areas or neighboring lots.

(e) The Homeowner shall notify the Association when the Project is complete. The Association or its representative may inspect the exterior of the Project at reasonable times, with reasonable notice, to confirm compliance with the approval.

**9. Ongoing Maintenance, Repair, and Removal.** The Homeowner, and each later owner of the property, is solely responsible for the maintenance, repair, replacement, and upkeep of the Project. If the Project falls into disrepair, does not conform to the approval, or is built without required approval, the Association may, after written notice and any opportunity to cure required by the governing documents, require the Homeowner to repair, correct, or remove the Project and restore the property at the Homeowner's sole expense. If the Homeowner fails to do so, the Association may exercise any remedy available under the governing documents and Michigan law.

**10. Ownership, Authority, and Co-Owner Consent.** Each person or entity signing this Agreement agrees that:

(a) **All owners must sign.** The Association requires the signature of every owner of record. The Association may decline to review, approve, or issue a decision on the Application until every owner of record has signed. If the Association, in its sole discretion, accepts this Agreement with fewer than all owners' signatures, that acceptance does not waive this requirement for this or any later Application, and does not reduce any signer's obligations.

(b) **Representations.** Each signer represents and warrants that (i) the Ownership Certification above is complete and accurate and lists every owner of record; (ii) the signer is an owner of record or is legally authorized to sign for one; and (iii) every owner of record who has not signed has been informed of the Project and this Agreement and has consented to both. The Association may rely on these representations without investigating title.

(c) **Full personal liability of each signer.** Each signer is personally, jointly, and severally liable for the full amount of every obligation under this Agreement, as if that signer were the sole owner of the property, regardless of the signer's percentage of ownership or how title is held, including when the property is held by a married couple as tenants by the entirety. No signer may raise, as a defense to any obligation under this Agreement, that another owner did not sign or consent, that the signer lacked authority to bind another owner, or that the form of ownership protects the property or the signer.

(d) **Indemnity against claims of non-signing owners.** Each signer shall indemnify, defend, and hold harmless the Indemnified Parties from any claim by a non-signing owner, spouse, co-owner, trustee, trust beneficiary, heir, land contract seller or purchaser, mortgage lender, or any other person claiming an interest in the property, arising out of the Association's review or approval of the Application, its reliance on the signer's representations, or the Project.

(e) **Ratification by non-signing owners.** To the fullest extent permitted by law, an owner of record who does not sign but who knows of the Project, permits it to proceed, or accepts or keeps its benefit is deemed to have ratified and agreed to this Agreement.

(f) **False or incomplete information.** If any representation in this Agreement or the Ownership Certification is false or incomplete, the Association may, in addition to any other remedy, suspend or revoke its approval, require work to stop, and require the Project to be removed and the property restored at the Homeowner's sole expense. The signer is responsible for all resulting costs, including attorneys' fees.

(g) **Trusts, entities, and estates.** A person signing for a trust, limited liability company, corporation, partnership, or estate represents that he or she has full authority to bind that owner and the property, and shall provide proof of authority upon request, such as a certificate of trust, operating agreement, corporate resolution, or letters of authority. That person is also personally liable under Subsection (c) if the authority proves to be lacking.

(h) **Land contracts.** If the property is being purchased on a land contract, both the land contract purchaser and the land contract seller must sign, unless the Association accepts the seller's separate written consent.

(i) **Transfer before completion.** If the property is sold or transferred before the Project is complete, the signers remain liable under this Agreement until the new owner signs a written assumption of it acceptable to the Association.

**11. Enforcement and Costs.** If the Association takes action to enforce this Agreement, the Homeowner shall reimburse the Association for all reasonable costs it incurs, including attorneys' fees, whether or not a lawsuit is filed. Fines, charges, and costs under this Agreement may be assessed and collected as provided in the Association's governing documents.

**12. Successors, Disclosure to Future Buyers, and Recording.** The Homeowner further agrees that:

(a) **Binding effect.** This Agreement binds the Homeowner and the Homeowner's heirs, personal representatives, trustees, successors, and assigns, and remains in effect for as long as the Project exists on the property.

(b) **Disclosure to future buyers.** Before any sale, land contract, or other transfer of the property, the Homeowner shall disclose in writing to the buyer: (i) every approval, conditional approval, and denial the Association has issued for the property, including all conditions of approval; (ii) all work performed under those approvals, including the Project; (iii) this Agreement and the obligations it places on later owners; and (iv) any outstanding repair, maintenance, removal, or compliance obligation, unpaid charge, or violation notice relating to the property. The disclosure shall be given, with a copy of this Agreement, before the buyer signs a purchase agreement or, if that is not possible, before closing. Upon the Association's request, the Homeowner shall provide a copy of the disclosure signed by the buyer.

(c) **Liability for failure to disclose.** If the Homeowner does not make the disclosure required by Subsection (b), or the disclosure is incomplete or inaccurate, each signer remains personally, jointly, and severally liable after the transfer for every obligation under this Agreement, including the full cost to repair, correct, maintain, or remove the Project and restore the property. Each signer shall also indemnify, defend, and hold harmless the Indemnified Parties from any claim by the buyer or any later owner arising out of the failure to disclose or out of the Project, including reasonable attorneys' fees. A failure to disclose does not release the buyer or any later owner from the Association's governing documents or from any obligation that runs with the land.

(d) **Recording.** The Homeowner consents to the Association recording the attached Memorandum of Agreement with the Kalamazoo County Register of Deeds so that this Agreement runs with the land, and each owner of record shall sign the Memorandum before a notary public upon the Association's request. This Agreement is effective and fully enforceable against each signer when signed, whether or not the Memorandum is ever signed, notarized, or recorded. Recording is optional and only provides notice to later owners and purchasers.

**13. Notices.** Notices under this Agreement may be delivered to the Homeowner at the property address or the email address listed above, or at any other address the Homeowner provides in writing, and to the Association at its registered office or the address of its managing agent. Notice to any one signer is notice to all owners.

**14. Governing Documents.** This Agreement supplements, and does not replace, the Association's master deed, bylaws, rules, and architectural guidelines (the "governing documents"). If this Agreement conflicts with the governing documents, the governing documents control.

**15. General Provisions.** This Agreement is governed by the laws of the State of Michigan. If any provision is found unenforceable, it shall be enforced to the maximum extent permitted, and the remaining provisions shall remain in full effect. The Association's delay or failure to enforce any provision is not a waiver of its right to enforce that or any other provision later. The obligations in Sections 1, 2, 4, 9, 10, and 12 survive completion, removal, or abandonment of the Project and any sale of the property. This Agreement, together with the Application and the Association's written approval, is the entire agreement regarding the Project and may be changed only in a writing signed by the Homeowner and the Association. This Agreement may be signed in counterparts and by electronic signature, each of which is treated as an original, except that the Memorandum of Agreement must bear original signatures and a notary acknowledgment to be recorded.

**16. Acknowledgment.** Each signer acknowledges having read and understood this Agreement, including Section 10, having had the opportunity to consult an attorney of the signer's choosing, and signing it voluntarily with the intent to be legally bound.

## HOMEOWNER SIGNATURES

*All owners of record must sign. Attach additional signature pages if needed.*

### Owner of Record

**Signature:** _____ **Date:** _____

**Printed Name:** _____

### Owner of Record

**Signature:** _____ **Date:** _____

**Printed Name:** _____

### Additional Owner of Record (if applicable)

**Signature:** _____ **Date:** _____

**Printed Name:** _____

### Trust, LLC, Corporation, or Estate Owner (if applicable)

**Name of Trust or Entity:** _____

**By (Signature):** _____ **Date:** _____

**Printed Name:** _____ **Its (Title):** _____

## SIGNING WITHOUT ALL OWNERS (complete only if any owner of record has not signed)

☐ I am signing this Agreement without the signature of every owner of record. I confirm that the non-signing owner(s) listed in the Ownership Certification know of and consent to the Project, and I accept full personal liability under Section 10 for every obligation in this Agreement.

**Signer Initials:** _____

**Reason other owner(s) did not sign:** _____

## ASSOCIATION ACKNOWLEDGMENT (OFFICE USE ONLY)

| | | | |
|---|---|---|---|
| **Received By** | | **Date Received** | |

**All owners signed:** ☐ Yes ☐ No, accepted under Section 10(a) ☐ No, returned

**ARC Decision:** ☐ Approved ☐ Approved with Conditions ☐ Denied ☐ Incomplete

_____ _____

*Authorized Signature* *Title*

Save As Print Submit