

**CERTIFIED RESOLUTIONS OF THE BOARD OF DIRECTORS
OF OVERLOOK ESTATES HOMEOWNERS ASSOCIATION, INC.**

**ADOPTION OF PROCEDURES AND GUIDELINES FOR
THE EXERCISE OF ARCHITECTURAL REVIEW AUTHORITY
PURSUANT TO CHAPTER 209 OF THE TEXAS PROPERTY CODE**

The undersigned, Maura Taylor-Landers, as the duly elected, qualified, and acting President of the Overlook Estates Homeowners Association, Inc., a Texas nonprofit corporation (the "Association"), hereby certifies on behalf of the Association that the following resolutions were duly adopted by the Board of Directors of the Association (the "Board") at a meeting of the Board held on September 02, 2022, and that such preamble and resolutions have not been amended or rescinded and are in full force and effect on the date hereof.

WHEREAS, the Association is a property owners association governed by Chapter 209 of the Texas Property Code and is vested with the authority to enforce restrictive covenants and other terms and provisions of that certain *Declaration of Covenants, Conditions and Restrictions Overlook Estates, Sections One and Two*, recorded as Document No. 199955777 in the Official Public Records of Williamson County, Texas, as may be amended from time to time (collectively, the "Declaration").

WHEREAS, Chapter 209 of the Texas Property Code imposes certain procedures for the denial of a property owner's application for architectural review of proposed construction or modification of an improvement and establishes procedures for appealing a denial of an application for architectural review to the Association's Board of Directors

WHEREAS, the Board desires to adopt procedures and guidelines for conducting architectural review of a property owner's application for proposed construction or modification of an improvement in compliance with Chapter 209 of the Texas Property Code.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the procedures and guidelines set forth on Exhibit "A", attached hereto and incorporated herein by reference.

BE IT RESOLVED, FURTHER, that, the Secretary of the Association is hereby authorized and empowered, in the name and on behalf of the Association, from time to time to do and perform all such further acts and things and to execute and deliver all such further instruments as he or she may deem necessary or advisable to carry out and effectuate the intent and purposes of the foregoing resolutions and of the actions referred to therein.

BE IT RESOLVED, FURTHER, that any actions taken by the officers or directors of the Association prior to the date of this action or hereafter that are within the authority conferred hereby are hereby ratified, confirmed and approved as the act and deed of the Association.

SECRETARY'S CERTIFICATE

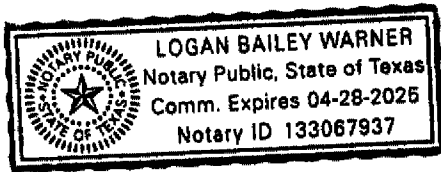
IN WITNESS WHEREOF, the undersigned has executed this Certificate as Secretary on behalf of the Association to be effective upon the recording of this document in the Official Public Records of Williamson County, Texas.

Marta Taylor-Landers
By: Marta Taylor-Landers
Title: President

STATE OF TEXAS §

COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on September 2, 2022, by Marta Taylor-Landers, Secretary of the Overlook Estates Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Logan Warner
Notary Public Signature

AFTER RECORDING PLEASE RETURN TO:

Adam Pugh
CAGLE PUGH, LTD. LLP
4301 Westbank Drive, Ste. A-150
Austin, Texas 78746

EXHIBIT A

OVERLOOK ESTATES HOMEOWNERS ASSOCIATION PROCEDURES AND GUIDELINES FOR THE EXERCISE OF ARCHITECTURAL REVIEW AUTHORITY PURSUANT TO CHAPTER 209 OF THE TEXAS PROPERTY CODE

ARTICLE I Introduction

The architectural review of applications for construction or modification of improvements is a vital task for ensuring that improvements constructed in the Overlook Estates Homeowners Association community (the "Community") are in compliance with the terms and provisions of the governing documents applicable to the community. Such task commonly involves a high degree of discretionary determinations, which may be scrutinized or disagreed with by others after the fact. In order to provide greater transparency and procedures for redress when property owners disagree with architectural review decisions concerning their property, the Texas legislature enacted Section 209.00505 of the Texas Property Code, which imposes new procedures for the denial of a property owner's application for architectural review and establishes procedures for appealing a denial of an application for architectural review to the property owners association's board of directors.

These procedures and guidelines are intended to assist the Architectural Control Committee, the "Architectural Committee") in the review and approval or denial of an application for architectural review of proposed construction or modification of an improvement and, if applicable, the appellate review of a denied application (the "Guidelines"). The Guidelines have been prepared by the Cagle Pugh law firm specifically for the Architectural Committee and the Board of Directors (the "Board") of Overlook Estates Homeowners Association, Inc. (the "Association") and are based on that certain *Declaration of Covenants, Conditions and Restrictions Overlook Estates, Sections One and Two*, recorded as Document No. 199955777 in the Official Public Records of Williamson County, Texas, as amended from time to time (collectively, the "Declaration").

ARTICLE II Purpose

The purpose of the Architectural Committee is to serve as a "gate-keeping" function for the construction of Improvements in a development. In most Declarations, Homeowners are required to submit an application for the construction of new Improvements or the modification of existing Improvements to the Architectural Committee for its review in advance of initiating construction, and the Architectural Committee is vested with exclusive discretion to determine whether such proposed construction of new Improvements or modification of existing Improvements is in compliance with the Restrictive Covenants applicable to the community. Often such task also involves a subjective determination as to whether the proposed construction is aesthetically attractive and harmonious with the other structures in the community. The authority to review and approve construction of new Improvements and/or modifications to existing Improvements is generally referred to as the "Architectural Review Authority."

ARTICLE III Improvements Requiring Approval of the Architectural Committee

The necessity of obtaining approval from an architectural committee is derived from a land-use restriction contained in the dedicatory instruments applicable to the community. Such land-use restriction will often restrict property owners from constructing or modifying certain improvements, buildings and/or

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structures without the advance written approval of the architectural committee. The scope of items requiring approval of the architectural committee is specified by the dedicatory instruments applicable to the community.

The Declaration for the Community requires the following items to be submitted to and approved by the Architectural Committee:

Any building, fence, wall or other structure or improvement of any nature or any exterior addition to or change or alteration to the same.

ARTICLE IV Scope of Architectural Review Authority

The authority of the Architectural Committee to approve or deny a property owner's application to construct or modify an improvement is not without limitation. In a 1981 case law opinion, entitled *Davis v. Huey*, the Texas Supreme Court held that dedicatory instrument provisions requiring the submission of plans to and prior consent of an architectural committee before construction of improvements are valid "insofar as they furnish adequate notice to the homeowners of the specific restriction sought to be enforced" and that an architectural committee may not impose building restrictions upon homeowners that are more stringent than those specifically set out in the dedicatory instruments through its discretionary authority to disapprove proposed construction projects. In other words, even if a dedicatory instrument vests an architectural committee with discretionary approval authority, the architectural committee is not permitted to alter or expand the specific building restrictions or to impose limitations on a property owner's construction or remodeling project that are more restrictive than the specific restrictions set out elsewhere in the dedicatory instrument. Thus, the scope of an architectural committee's review of an application for proposed construction or modification of an improvement is generally dictated by the express provisions of the dedicatory instrument establishing such committee, and an architectural committee may not exercise architectural review authority over characteristics of a proposed improvement that is not expressly within such scope of review.

The permitted scope of Architectural Review Authority by the Architectural Committee established by the Declaration is as follows:

- a) to determine if the proposed improvement is in conformity and harmony of external design and location in relation to surrounding structures and topography, and
- b) to determine if the proposed improvement meets minimum standards for quality of workmanship and materials.

ARTICLE V Variance Authority

It is very common for a dedicatory instrument to vest an architectural committee with the power to grant a property owner a variance from compliance with one or more of the land-use restrictions in the dedicatory instrument regarding construction or modification of an improvement. When such variance authority is granted to an architectural committee it may be limited to certain types of land-use restrictions or the architectural committee may be restricted from granting a variance except in limited to circumstances

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where the architectural committee determines there is good cause or justification for allowing the deviation and such variance will not have an adverse impact on the community.

The Declaration does grant the Architectural Committee the authority to grant variances in its sole discretion.

ARTICLE VI Time Period for Review

The Declaration provides that an application for architectural review must be completed and communicated to the requesting property owner (or his or her representative) within 30 days from receipt of all required information. It is very important that the Architectural Committee comply with this deadline as the failure to do so will result in an approval of the application by default.

If the Architectural Committee does not have sufficient information from the requesting property owner to be able to approve an application within the specified time period to do so, the Architectural Committee should deny the application for such reason before the expiration of the deadline, request the additional information needed to perform a review of the application, and inform the requesting property owner that the application will be reconsidered by the Architectural Committee upon receipt of the requested information.

ARTICLE VII Denial of an Application

Section 209.00505 of the Texas Property Code requires all denials of an application for construction or modification of an improvement to be in writing and delivered to the requesting property owner by certified mail, hand-delivery, or electronic delivery. The written denial must also (1) 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 (2) inform the property owner that he or she may request a hearing with the board of directors for the purpose of appealing the denial by the architectural committee on or before the 30th day after the date the written denial is mailed, hand-delivered or electronically delivered to the property owner.

Based on the permitted scope of Architectural Review Authority described above, an application may be denied by the Architectural Committee for one (1) or more of the following reasons:

- a) The proposed improvement is not in conformity and/or harmony of external design and/or location in relation to surrounding structures and topography, and
- b) The proposed improvement does not meet minimum standards for quality of workmanship and materials.

A template letter for denial of an application that conforms to the Architectural Committee's scope of Architectural Review Authority under the Declaration and complies with the requirements of Section 209.00505 of the Texas Property Code is attached hereto as Exhibit A-1 and the Architectural Committee is strongly encouraged to use such template when denying a property owner's application for architectural review. The denial of an application letter should state all applicable reasons for the denial.

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ARTICLE VIII Appellate Review by the Board

If a request for an appellate review hearing is timely received from a property owner, the Board must conduct an appellate review hearing not later than the 30th day after the date the Board receives the property owner's request and the Board must provide the property owner notice of the date, time, and place of the hearing not later than the 10th day before the date of the hearing.

During an appellate review hearing, the Board, or a designated representative of the Association, and the owner, or his or her designated representative, will each be provided the opportunity to discuss, verify facts, and resolve the denial of the property owner's application or request for the construction or modification of an improvement, and the changes, if any, requested by the architectural committee in the written denial provided to the property owner.

The Board or the property owner may request a postponement of the scheduled hearing. If requested, a postponement shall be granted for a period of not more than 10 days. Subsequent postponements may be granted by agreement of the parties. The Association and/or the property owner may make an audio recording of the appellate review hearing.

The Board is authorized to affirm, modify, or reverse, in whole or in part, any decision of the Architectural Committee concerning an application for construction of an improvement, as consistent with the Declaration. In other words, the Board is limited to the same scope of architectural review as the Architectural Committee.

EXHIBIT A-1

OVERLOOK ESTATES HOMEOWNERS ASSOCIATION

Architectural Control Committee

_____, 2021

[Insert Owner Name]

Via Certified Mail, Hand-Delivery, and/or Electronic Delivery

RE: Denial of application for construction or modification of improvement at _____ (the "Property") submitted to the Architectural Control Committee (the "Committee") on _____, 2021 (the "Application")

Dear [insert owner name]:

Thank you for your submission of the Application. The Committee has denied the Application for the following reasons:

The proposed improvement is not in conformity and/or harmony of external design and/or location in relation to surrounding structures and topography.

The proposed improvement does not meet minimum standards for quality of workmanship and materials.

The submitted Application failed to include information required by the applicable dedicatory instrument and/or requested by the Committee. Please provided the required/requested information and the Committee will reconsider the Application

Other: _____

[if applicable – add the following provision]

Notwithstanding the denial above, the Committee shall reconsider its denial and approve the Application on the following conditions:

Pursuant to Section 209.00505 of the Texas Property Code, you may request an appellate review hearing with the Board of Directors of Overlook Estates Homeowners Association, Inc. (the "Board"). A request for an appellate review hearing must be delivered to the Board on or before the 30th day from the date this notice was transmitted to you at the following mailing and/or email address:

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Sincerely,

[insert name]

[insert title]

**ELECTRONICALLY RECORDED
OFFICIAL PUBLIC RECORDS**

2022104156

Pages: 9 Fee: \$54.00

09/06/2022 09:05 AM

MBARRICK



Nancy E. Rister

Nancy E. Rister, County Clerk
Williamson County, Texas