

CERTIFIED RESOLUTIONS OF THE BOARD OF DIRECTORS
OF POWDER MILL ESTATES OWNERS ASSOCIATION, INC
ADOPTION OF PROCEDURES AND GUIDELINES FOR CONDUCTING
HEARINGS PURSUANT TO CHAPTER 209 OF THE TEXAS PROPERTY CODE

The undersigned, Derek Riffe, as the duly elected, qualified, and acting Secretary of the Powder Mill Estates Owners 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"Board") at a meeting of the Board held on _____, 202_, and that such preamble and resolutions have not been amended or rescinded and are in full force and effect on the date hereof.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 Declarations and Amendments of Powder Mill Estates Owners Association, Inc. recorded in the Official Public Records of Harris County, Texas.

WHEREAS, Chapter 209 of the Texas Property Code requires the Board to conduct a hearing, if timely requested by a property owner, for the appellate review of negative architectural review determinations and before the Association may suspend a property owner's right to use a common area, file a suit against a property owner (other than a lawsuit seeking a temporary restraining order or temporary injunctive relief or a lawsuit to collect a regular or special assessment or to foreclose an assessment lien), charge a property owner for property damage, levy a fine for a violation of the restrictions or bylaws or rules of the Association, or report any delinquency of a property owner to a credit reporting service.

WHEREAS, the Board desires to adopt procedures and guidelines for conducting such hearings 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 Harris County, Texas.

By: Derek Riffe
Secretary

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on January ___, 2023 by Derek Riffe, Secretary of Powder Mill Estates Owners Association, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.

Notary Public, State of Texas

AFTER RECORDING PLEASE RETURN TO:

,
Kathy Ann Terry
PO Box 690141
Houston, TX 77269

PROCEDURES AND GUIDELINES FOR CONDUCTING HEARINGS PURSUANT TO
CHAPTER 209 OF THE TEXAS PROPERTY CODE

ARTICLE I

Introduction and Purpose

Powder Mill Estates Owners Association, Inc., a Texas nonprofit corporation (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 Declarations and Amendments for Powder Mill Estates Owners Association, Inc. recorded in the Official Public Records of Harris County, Texas.

Chapter 209 of the Texas Property Code imposes certain due process procedures that the Association must perform before it may enforce restrictive covenants and other terms and provisions of the Declaration. In particular, Section 209.006 of the Texas Property Code requires the Board to provide a property owner with a statutorily-mandated notice (the "Chapter 209 Notice"), and to conduct a hearing if timely requested by such property owner, before the Association may suspend a property owner's right to use a common area, file a suit against a property owner (other than a lawsuit seeking a temporary restraining order or temporary injunctive relief or a lawsuit to collect a regular or special assessment or to foreclose an assessment lien), charge a property owner for property damage, levy a fine for a violation of the restrictions or bylaws or rules of the Association, report any delinquency of a property owner to a credit reporting service, or hold a property owner liable of attorneys' fees incurred by the Association associated with such enforcement action by the Association (a "Chapter 209 Enforcement Hearing"). In addition, Section 209.007 of the Texas Property Code imposes statutory procedures for providing notice of and conducting a Chapter 209 Enforcement Hearing.

In addition, the 2021 Texas legislature enacted Section 209.00505 of the Texas Property Code, which establishes authority for the appellate review by the Association's Board of Directors (the "Board") of negative architectural determinations made by the Association's Architectural Control Committee (the "Architectural Committee"). Section 209.00505 also imposes statutory procedures for providing notice of and conducting a hearing by the Board for the appellate review of such architectural determinations (a "Chapter 209 Architectural Review Hearing").

The purpose of these procedures and guidelines (the "Guidelines") is to assist the Board in scheduling, providing notice of, and conducting Chapter 209 Enforcement Hearings and Chapter 209 Architectural Review Hearings in compliance with Chapter 209 of the Texas Property Code and to provide property owners requesting such hearings with notice of the procedures and guidelines that will govern such proceedings.

ARTICLE II

Chapter 209 Architectural Review Hearings

2.1 Scope of the Board's Appellate Review Authority. Unless the Declaration provides otherwise, the Board's authority to conduct an appellate review of an architectural determination by the Architectural Committee shall be limited to a decision by the Architectural Committee denying an application or request by a property owner for the construction or modification of an improvement on the property owner's lot pursuant to Section 209.00505 of the Texas Property Code. The authority of the Board to review decisions of the Architectural Committee under Section 209.00505 does not extend to an approval of a property owner's application for the construction or modification of an

improvement or a denial of a request for a variance from compliance with the provisions of the Declaration.

2.2 Requesting Appellate Review of an Architectural Determination. To be effective, a request for appellate review by the Board of an eligible architectural determination must be in writing and received by the Association within thirty (30) days from the date written notice of such architectural determination was mailed by certified mail, hand-delivered, or emailed to the property owner in compliance with Section 209.00505 of the Texas Property Code. The written request for appellate review must be sent to the Association by certified mail at the mailing address of the Association or authorized representative as reflected on the most current management certificate filed by the Association pursuant to Section 209.004 of the Texas Property Code. Failure to timely request appellate review of an eligible architectural determination shall waive the Board's appellate review authority.

2.3 Scheduling and Notice of the Chapter 209 Architectural Review Hearing. The Board shall conduct a Chapter 209 Architectural Review Hearing within thirty (30) days from the date the Board receives a property owner's timely written request for appellate review. The Board shall also provide the property owner notice of the date, time, and location of the hearing at least ten (10) days prior to the date of said hearing. The notice of the Chapter 209 Architectural Review Hearing may be mailed, hand-delivered, or emailed to the requesting property owner and shall be considered delivered on the day it is hand-delivered, mailed to the requesting property owner at his or her last known mailing address with proper postage, or emailed to the requesting property owner at an email address provided to the Association by such property owner. The Board or the requesting property owner may request a postponement of the scheduled hearing date one (1) time each and, if requested, a postponement shall be granted for a period of no more than ten (10) days from the date of the previously scheduled hearing date unless otherwise agreed to by the Board and the property owner. Additional postponements may be granted by agreement of the parties. The Board shall provide the requesting property owner with the date, time, and location of the rescheduled hearing date at least twenty-four (24) hours in advance of the rescheduled hearing date. Notice of a rescheduled hearing date may be given to a property owner by any reasonable manner designed to provide adequate notice of the rescheduled hearing.

2.4 Location of the Chapter 209 Architectural Review Hearing. A Chapter 209 Architectural Review Hearing may be conducted in conjunction with a meeting of the Board or at a non-public work session of the Board. In addition, a Chapter 209 Architectural Review Hearing may be held at a physical location, or at the election of the Board, by video conference technology, provided the property owner is afforded the reasonable ability to present information relevant to the appellate review of the architectural determinations concerning the property owner's application or request for the construction or modification of an improvement that are at issue. Upon the agreement of the Board and the property owner, a Chapter 209 Architectural Review Hearing may be conducted at the property for which the architectural determinations at issue relate.

2.5 Attendance at the Chapter 209 Architectural Review Hearing. The Board and the requesting property owner may be represented by legal counsel at a Chapter 209 Architectural Review Hearing. In addition, both parties may have other relevant persons attend the Chapter 209 Architectural Review Hearing, including the Association's managing agents, members of the Architectural Committee, architects, contractors, consultants and any other person that either party believes would be in a position to provide information relevant to the appellate review of the architectural

determinations concerning the property owner's application or request for the construction or modification of an improvement that are at issue.

2.6 Conduction of the Chapter 209 Architectural Review Hearing. At the Chapter 209 Architectural Review Hearing, the Board (or a designated representative of the Association) and the requesting property owner (or the property owner's designated representative) shall each be provided the opportunity to discuss, verify facts, and resolve the denial of the property owner's application or request for the construction of improvements, and the changes, if any, requested by the Architectural Committee in the written denial of such application or request. An audio recording of the Chapter 209 Architectural Review Hearing may be made by the Board or the property owner.

2.7 Appellate Review Ruling by the Board. The Board shall have the authority to affirm, modify, or reverse, in whole or in part, any decision of the Architectural Committee concerning the application or request for the construction or modification of an improvement that is the subject of the Board's appellate review. Such authority shall include the power to modify or reverse decisions by the Architectural Committee previously approving components of the requesting property owner's application or request for the construction or modification of an improvement. The Board's ruling may be conditioned upon the property owner's agreement to modify the proposed construction or modification of the improvement at issue or upon the owner's agreement to other reasonable terms and conditions (such as installation of landscaping or screening). The Board may, but is not required to, state the basis for its determinations in the written ruling. Notwithstanding anything to the contrary, the Board's ruling shall be consistent with the terms and provisions of the Declaration and no architectural determinations made by the Board pursuant to its appellate review of the Architectural Committee's determinations may exceed the architectural review authority vested in the Architectural Committee by the Declaration. The Board's ruling shall be in writing and mailed by certified mail, hand-delivered or emailed to the requesting property owner within ten (10) business days from the date of the Chapter 209 Architectural Review Hearing. There shall be no further appeal or reconsideration of the ruling by the Board.

ARTICLE III

Chapter 209 Enforcement Hearings

3.1 Requesting a Chapter 209 Enforcement Hearing. To be effective, a request for a Chapter 209 Enforcement Hearing must be in writing and received by the Association within thirty (30) days from the date written notice of a violation, property damage, fine, suspension of rights or intent to notify a credit reporting service is sent to the property owner by verified mail in compliance with Section 209.006 of the Texas Property Code. The written request for a Chapter 209 Enforcement Hearing must be sent to the Association by certified mail at the mailing address of the Association or authorized representative as reflected on the most current management certificate filed by the Association pursuant to Section 209.004 of the Texas Property Code. Failure to timely request a Chapter 209 Enforcement Hearing shall waive any right to such a hearing.

3.2 Scheduling and Notice of the Chapter 209 Enforcement Hearing. The Board shall conduct a Chapter 209 Enforcement Hearing within thirty (30) days from the date the Board receives a property owner's timely written request for a hearing. The Board shall also provide the property owner notice of the date, time, and location of the hearing at least ten (10) days prior to the date of said hearing. The notice of the Chapter 209 Enforcement Hearing may be mailed, hand-delivered,

or emailed to the requesting property owner and shall be considered delivered on the day it is hand-delivered, mailed to the requesting property owner at his or her last known mailing address with proper postage, or emailed to the requesting property owner at an email address provided to the Association by such property owner. The Board or the requesting property owner may request a postponement of the scheduled hearing date one (1) time each, and if requested, a postponement shall be granted for a period of no more than ten (10) days from the date of the previously scheduled hearing date unless otherwise agreed to by the Board and the property owner. Additional postponements may be granted by agreement of the parties. The Board shall provide the requesting property owner with the date, time, and location of the rescheduled hearing date at least twenty-four (24) hours in advance of the rescheduled hearing date. Notice of a rescheduled hearing date may be given to a property owner by any reasonable manner designed to provide adequate notice of the rescheduled hearing.

3.3 Location of the Chapter 209 Enforcement Hearing. A Chapter 209 Enforcement Hearing may be conducted in conjunction with a meeting of the Board or at a non-public work session of the Board. If the Chapter 209 Enforcement Hearing is conducted at a meeting of the Board, it shall be conducted during an executive session of the meeting unless the requesting property owner and the Board agree to conduct it during an open session of the meeting. In addition, a Chapter 209 Enforcement Hearing may be held at a physical location, or at the election of the Board, by video conference technology, provided the property owner is afforded the reasonable ability to present information relevant to the subject matter of the Chapter 209 Enforcement Hearing. Upon the agreement of the Board and the property owner, a Chapter 209 Enforcement Hearing may be conducted at the property that is the subject of the hearing.

3.4 Pre-Hearing Disclosure of Evidence Packet. No later than ten (10) days before a Chapter 209 Enforcement Hearing is held by the Board, the Board shall provide to the requesting property owner a packet containing all documents, photographs, and communications relating to the matter that the Board intends to introduce at the Chapter 209 Enforcement Hearing (the "Evidentiary Packet"). The Evidentiary Packet may be mailed, hand-delivered or emailed to the requesting property owner and shall be considered delivered on the day it is hand-delivered, mailed to the requesting property owner at his or her last known mailing address with proper postage or emailed to the requesting property owner at an email address provided to the Association by such property owner. A letter from the Board to the requesting property owner stating that all documents, photographs, and communications relating to the matter that the Board intends to introduce at the Chapter 209 Hearing have been produced or that there are no documents, photographs, or communications relating to the matter that the Board intends to introduce at the Chapter 209 Enforcement Hearing shall satisfy the Board's obligation concerning the pre-hearing disclosure of the Evidence Packet. If the Board fails to timely provide the Evidentiary Packet to the requesting property owner, the property owner shall be entitled to an automatic fifteen (15) day postponement of the Chapter 209 Enforcement Hearing, unless the property owner agrees to waive the Board's obligation concerning the pre-hearing disclosure of the Evidence Packet.

3.5 Attendance at the Chapter 209 Enforcement Hearing. The Board and the requesting property owner may be represented by legal counsel at a Chapter 209 Enforcement Hearing. In addition, both parties may have other relevant persons attend the Chapter 209 Enforcement Hearing, including the Association's managing agents, members of the Architectural Committee, architects, contractors, consultants and any other person that either party believes would be in a position to provide information relevant to the subject matter of the hearing.

3.6 Conduction of the Chapter 209 Enforcement Hearing. The purpose of the Chapter 209 Enforcement Hearing is to discuss and verify facts and resolve the matters at issue. At the Chapter 209 Enforcement Hearing, a member of the Board (or a designated representative of the Association) shall first present the Association's case against the property owner. The property owner (or the property owner's designated representative) may then present the property owner's information and issues relevant to the appeal or dispute. An audio recording of the Chapter 209 Enforcement Hearing may be made by the Board or the property owner.

3.7 Ruling by the Board. The Board's ruling shall be in writing and mailed by certified mail, hand-delivered, or emailed to the requesting property owner within ten (10) business days from the date of the Chapter 209 Enforcement Hearing. The Board may, but is not required to, state the basis for its determinations in the written ruling. There shall be no appeal or reconsideration of the ruling by the Board.