

CERTIFIED RESOLUTIONS OF THE BOARD OF DIRECTORS  
OF POWDER MILL ESTATES OWNERS ASSOCIATION. INC.

ADOPTION OF PERMITTED RULES AND REGULATIONS UNDER  
CHAPTER 202 OF THE TEXAS PROPERTY CODE

The undersigned, Derek Riffe, as the duly elected, qualified, and acting Secretary of 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at a meeting of the Board held on \_\_\_\_\_, 202\_ and that such preamble and resolutions have not been amended or rescinded and are in full force and effect on the date hereof.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, certain recently-enacted statutory laws purport to override or void any provision in the Association's governing documents that would restrict or prohibit property owners from construction, installation, or placement of swimming pool enclosures or security measures on their property and/or displaying religious items on their dwelling or property;

WHEREAS, Chapter 202 of the Texas Property Code (the "Code") authorizes the Association to adopt dedicatory instrument provisions to impose certain limited permitted regulations for construction, installation, or placement of swimming pool enclosures or security measures on a property owner's property and/or a property owner or resident's display of religious items on their property or the dwelling located thereon; and

WHEREAS, the Board desires to adopt such permissible regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the regulations 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 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.

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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.

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Notary Public, State of Texas

AFTER RECORDING PLEASE RETURN TO:

Kathy Ann Terry  
PO Box 690141  
Houston, TX 77269

Exhibit A  
STATUTORY-BASED RULES & REGULATIONS FOR  
POWDER MILL ESTATES OWNERS ASSOCIATION, INC.

I. OPENING RECITALS

1.1 Declaration. These Statutory-Based Rules & Regulations for Powder Mill Estates Owners Association, Inc. apply to all real property that is subject to the Declarations and Amendments for Powder Mill Estates Owners Association, Inc. and recorded in the Official Public Records of Harris County, Texas.

1.2 Authority. The Declaration contains provisions that impose land-use restrictions that regulate the use of lots in the Subdivision Development and the construction or placement of improvements thereon, as well as provisions that prohibit construction or modification of improvements on lots without the prior written approval of the Association's Board of Directors, an architectural review committee, or the Declarant, as the case may be. Certain recently-enacted Texas statutory laws purport to override or void any provision in the Declaration that would restrict or prohibit property owners from construction, installation, or placement of swimming pool enclosures or security measures on their property and/or restrict or prohibit property owners or residents from displaying religious items on their dwelling or lots. Notwithstanding, such statutory laws authorize the Association to adopt and enforce certain permissible dedicatory instrument provisions that impose certain limited regulations for construction, installation, or placement of swimming pool enclosures or security measures on a property owner's property and/or a property owner or resident's display of religious items on their property or the dwelling located thereon.

1.3 Construction & Conflict. These Statutory-Based Rules & Regulations are drafted to be compliant with the provisions of Chapter 202 of the Texas Property Code to which they are inferior. Accordingly, the terms and provisions of these Rules & Regulations are to be liberally construed to give maximum effect to the regulation of swimming pool enclosures, security measures, and displayed religious items permitted under Chapter 202 of the Texas Property Code, but they shall not be construed as a way to evade the protections, permissions, or requirements of Chapter 202. As a convenience to the Association's directors, officers, members, and managers, the pertinent provisions of applicable laws are paraphrased if not restated in these Rules & Regulations. If any provision of these Rules & Regulations conflict with State law, inaccurately paraphrases State law, or inadvertently omits an aspect of State law, the corresponding provision in State law controls. In the event of an apparent conflict between a provision of these Rules & Regulations and a provision in another dedicatory instrument of the Association, an effort must be made to construe the provisions so as to give effect to both, if such construction is reasonable. Otherwise, the provision in these Rules & Regulations is the higher authority for the limited purpose for which it is adopted, superseded only by public law. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

1.4 Severability. Invalidation of any provision of these Rules & Regulations by judgment or court order or subsequent statutory enactment does not affect any other provision, which remains in full force and effect.

1.5 Definitions. The term "Architectural Review Committee" shall mean Architectural Control Committee. Any other capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration.

1.6 Conflicts. To the extent these Statutory-Based Rules and Regulations directly contradict with any previous guidelines or rules adopted by the Association, these Statutory-Based Rules and Regulations shall control. These Statutory-Based Rules and Regulations are supplementary and are in addition to any and all other covenants, conditions, restrictions, rules, and guidelines in effect for the Association.

1.7 Effective Date. These Statutory-Based Rules and Regulations shall be effective as a "Dedictory Instrument" of the Association and the Subdivision Development on the date it is recorded in the Official Public Records of the county or counties in which all or a portion of the Subdivision Development is located.

## II. STATUTORY-BASED RULES & REGULATIONS

The following Rules & Regulations are hereby adopted as a Dedictory Instrument for the Association and Subdivision Development:

### A. SECURITY MEASURE REGULATIONS

A-1 Building or Installation of Security Measures. To the extent permitted and protected by applicable law (such as Texas Property Code Section 202.023), a property owner may build or install security measures, including but not limited to a security camera, motion detector, or perimeter fence, (a "Security Measure"), subject to the requirements of these Security Measure Regulations and permitted applicable provisions of the Declaration.

A-2 Location of Security Measures. A property owner may not build or install a Security Measure on any real property other than real property privately owned by such property owner.

Personal Security Cameras:

(1) may not be installed higher than the bottom of the roof line of the first story of the home;

(2) must make every effort to not invade the backyard privacy of an adjoining property; and

(3) front porch and doorbell cameras are allowed and encouraged.

A-3 Perimeter Fencing. A perimeter fence in the front yard may not be built or installed unless the type of fencing, including without limitation, its design, height, color, and construction material has been approved in writing by the Association's Architectural Review Committee.

Notwithstanding, a perimeter fence must be constructed of only black wrought iron or its decorative equivalent, not to exceed four feet in height, if utilized to enclose the front of the lot. All gates including driveway gates shall be constructed of similar material to the perimeter fencing used in the front of the home and shall open inward. Perimeter fencing shall not encroach on any easement and the front fencing parallel to the street shall have a minimum of a 20' setback from the street although 30' is encouraged. The side perimeter fence on corner lots shall be flush with the back yard fence.

Any perimeter fencing in the front yard must include a masonry base. If visible, the base should be complementary to the material on the outside of the home and may only include a brick, stucco or stone facade that is a minimum of 18" to a maximum of 36" in height. Masonry walls must allow for adequate water flow-through at a minimum of every 8' and must be constructed of like material as the overall structure.

A-4 Continued Application of the Declaration. To the extent applicable provisions of the Declaration or other dedicatory instruments of the Association do not prevent the economical building or installation of a Security Measure, such provisions shall continue to govern the building or installation of the Security Measure.

A-5 Architectural Review of Security Measures. A property owner must apply to the Architectural Review Committee for prior written approval of a proposed Security Measure to the extent required by the provisions of the Declaration and other dedicatory instruments of the Association. To the extent an applicable provision of the Declaration or other dedicatory instrument would prevent the economical building or installation of a proposed Security Measure, the Architectural Review Committee shall be authorized to modify the application of such provision in a manner that is reasonably intended to allow for the economical building or installation of the proposed Security Measure while still adhering as much as possible to the underlying intent and purpose of the Declaration and other dedicatory instruments, as determined by the Architectural Review Committee in its sole and absolute discretion.

## B. STANDBY ELECTRIC GENERATORS

Standby Electric Generators. To the extent permitted and protected by applicable law (Texas Property Code Section 202.019), a property owner may install on the owner's property a standby electric generator ("generator") that conforms to Sec. 202.019, including but not limited to location of the generator; safety requirements; installation; contractor qualifications; and fuel lines and upon application and approval by the architectural control committee. A copy of Property Code Section 202.019 is attached as Exhibit "B".

## C. RELIGIOUS ITEM DISPLAY REGULATIONS

C-1 Religious Displays. To the extent permitted and protected by applicable law (such as Texas Property Code Section 202.018), a property owner or resident may display or affix one or more religious items on the owner' or resident's lot or dwelling constructed thereon ("Religious Item"), provided:

- (1) The display of the Religious Item is motivated by the owner or resident's sincere religious belief;
- (2) No Religious Item may be installed or displayed that threatens the public health or safety;
- (3) No Religious Item may be installed or displayed that violates any law, other than one prohibiting the display of religious items;
- (4) No Religious Item may be installed or displayed that contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content;
- (5) No Religious Item may be installed or displayed on any real property owned by the Association or maintained by the Association or owned in common by members of the Association;
- (6) No Religious Item may be installed or displayed which violates any applicable building line, right-of-way, setback, or easement; and
- (7) No Religious Item may be attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole or fixture.

C-2 Architectural Review of Religious Items. Property owners and residents are encouraged (but not required) to apply to the Architectural Review Committee for confirmation that the proposed Religious Item conforms to these Religious Item Display Regulations. The Association may require a property owner or resident to remove any displayed Religious Item prohibited by the Declaration that does not comply with the requirements of applicable law or these Religious Item Display Regulations.

#### D. SWIMMING POOL ENCLOSURE REGULATIONS

D-1 Swimming Pool Enclosure. To the extent permitted and protected by applicable law (Texas Property Code Section 202.022), a property owner may install on the owner's property a swimming pool enclosure that conforms to applicable state or local safety requirements (a "Swimming Pool Enclosure"), subject only to the requirements of these Swimming Pool Enclosure Regulations. For purposes of these Swimming Pool Enclosure Regulations, a Swimming Pool Enclosure shall mean a fence that:

- (1) Surrounds a water feature, including a swimming pool or spa;
- (2) consists of transparent mesh or clear panels set in metal frames;
- (3) is not more than six (6) feet in height; and

- (4) is designed to not be climbable.

D-2 Regulation of Swimming Pool Enclosures. Swimming Pool Enclosures must comply with the following regulations:

- (1) A Swimming Pool Enclosure must be black in color unless an alternative color is approved by the Architectural Review Committee.
- (2) A Swimming Pool Enclosure must consist of transparent mesh set in metal frames unless an alternative material or design is approved by the Architectural Review Committee.
- (3) A Swimming Pool Enclosure shall not exceed six (6) feet in height, regardless of terrain, unless approved by the Architectural Review Committee.
- (4) A Swimming Pool Enclosure shall be designed to not be climbable.
- (5) A Swimming Pool Enclosure must conform to applicable state or local safety requirements. Notwithstanding the foregoing, it is the property owner's responsibility to ensure conformity with such requirements, and an approval from the Association or its architectural review committee shall not be construed as a warranty or representation that such installation is in fact in accordance with such requirements.

D-3 Architectural Review of Swimming Pool Enclosures. A Swimming Pool Enclosure may be installed by a property owner on his or her property without obtain written approval from the Association's architectural review committee, provided the Swimming Pool Enclosure complies with the Swimming Pool Enclosure Regulations' minimum requirements specified above. Notwithstanding, any Swimming Pool Enclosure that is not black in color or does not consist of transparent mesh set in metal frames must be approved in advance by the architectural review committee.

## Exhibit B

### Sec. 202.019. STANDBY ELECTRIC GENERATORS

(a) In this section, "standby electric generator" means a device that converts mechanical energy to electrical energy and is:

- (1) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen;
- (2) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- (3) connected to the main electrical panel of a residence by a manual or automatic transfer switch; and
- (4) rated for a generating capacity of not less than seven kilowatts.

(b) Except as provided by this section, a property owners' association may not adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator.

(c) A property owners' association may adopt or enforce any of the following dedicatory instrument provisions to regulate the operation and installation of standby electric generators:

- (1) a dedicatory instrument provision that requires a standby electric generator to be installed and maintained in compliance with:
  - (A) the manufacturer's specifications; and
  - (B) applicable governmental health, safety, electrical, and building codes;
- (2) a dedicatory instrument provision that requires all electrical, plumbing, and fuel line connections to be installed only by licensed contractors;
- (3) a dedicatory instrument provision that requires all electrical connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;
- (4) a dedicatory instrument provision that requires all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;
- (5) a dedicatory instrument provision that requires all liquefied petroleum gas fuel line connections to be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes;
- (6) a dedicatory instrument provision that requires nonintegral standby electric generator fuel tanks to be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes;
- (7) a dedicatory instrument provision that requires the standby electric generator and its electrical lines and fuel lines to be maintained in good condition;
- (8) a dedicatory instrument provision that requires the repair, replacement, or removal of any deteriorated or unsafe component of a standby electric generator, including electrical or fuel lines;
- (9) a dedicatory instrument provision that requires an owner to screen a standby electric generator if the standby electric generator is:
  - (A) visible from the street faced by the dwelling;
  - (B) located in an unfenced side or rear yard of a residence and is visible either



from an adjoining residence or from adjoining property owned by the property owners' association; or

(C) located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the property owners' association;

(10) a dedicatory instrument provision that sets reasonable times, consistent with the manufacturer's recommendations, for the periodic testing of a standby electric generator;

(11) a dedicatory instrument provision that prohibits the use of a standby electric generator to generate all or substantially all of the electrical power to a residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence;

(12) a dedicatory instrument provision that regulates the location of the standby electric generator; or

(13) a dedicatory instrument provision that prohibits an owner from locating a standby electric generator on property:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the property owners' association members.

(d) A dedicatory instrument provision permitted by Subsection (c), if adopted, must be reasonably applied and enforced.

(e) A dedicatory instrument provision that regulates the location of a standby electric generator is unenforceable if:

(1) it increases the cost of installing the standby electric generator by more than 10 percent; or

(2) it increases the cost of installing and connecting the electrical and fuel lines for the standby electric generator by more than 20 percent.

(f) If a dedicatory instrument requires that the installation of a standby electric generator be approved before installation, approval may not be withheld if the proposed installation meets or exceeds the dedicatory instrument provisions permitted by Subsection (c).

(g) If a dedicatory instrument provision requires an owner to submit an application for approval of improvements located exterior to a residence, this section does not negate the requirement, but the information required to be submitted as part of the application for the installation of a standby electric generator may not be greater or more detailed than the application for any other improvement.

(h) In a hearing, action, or proceeding to determine whether a proposed or installed standby electric generator complies with the requirements of a dedicatory instrument provision permitted by Subsection (c), the party asserting noncompliance bears the burden of proof.