



CERTIFIED RESOLUTIONS OF THE BOARD OF DIRECTORS

OF WOLF CREEK RANCH OWNERS ASSOCIATION

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

The undersigned, Cynthia Taniguchi, as the duly elected, qualified, and acting Secretary of Wolf Creek Ranch Owners Association, 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at a meeting of the Board held on November 20, 2021, and that such preamble and resolutions have not been amended or rescinded and are in full force and effect on the date hereof.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 Amended and Restated Declaration of Covenants, Conditions, and Restrictions, recorded as Document Number 200901499 in the Official Public Records of Burnet 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.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A

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 Burnet County, Texas.

Cynthia Taniguchi
By: Cynthia Taniguchi
Title: Secretary

STATE OF TEXAS §

COUNTY OF BURNET §

This instrument was acknowledged before me on December 7, 2021, by Cynthia Taniguchi, Secretary of Wolf Creek Ranch Owners Association, a Texas non-profit corporation, on behalf of said non-profit corporation.

Connie D. Haines
Notary Public Signature



AFTER RECORDING PLEASE RETURN TO:

Nelda Duff, Managing Agent
WCROA
10233 Ranch Road 2341
Burnet, TX 78611

EXHIBIT A

WOLF CREEK RANCH OWNERS 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 Wolf Creek Ranch Owners 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 Design Review Board, (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 Wolf Creek Ranch Owners Association, (the “**Association**”) and are based on that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions, recorded as Document Number 200901499 in the Official Public Records of Burnet 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, property owners 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.”

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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 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 that certain items be submitted to and approved by the Architectural Committee and provides as follows:

1. No building or other improvements, including without limitation, any fence, wall, driveway, paving, walk, deck, patio, canopy, awning, roof, signage, waste-water facility (including septic tank) or exterior lighting facility, shall be constructed, erected, placed or installed upon any Tract, and no change or alteration of the materials or appearance (including color) of the exterior of a building or other structure shall be made and no change in the final grade of any Tract shall be performed, and no other construction activity shall be initiated on any Tract, until the approval of the Design Review Board. (Section 7.1 of the Declaration)

2. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any improvement, or the removal of any improvement shall be performed only with the prior written approval. (Section 7.13 of the Declaration)

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 property owners 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.

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

1. To preserve the natural beauty of the Ranch and its setting, to maintain the Ranch as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of Property. (Section 10.1 of the Declaration)
2. To prevent the excessive or unsightly grading, indiscriminate earthmoving or clearing of property, removal of trees and vegetation which could cause disruption of natural watercourse or scar natural landforms. (Section 10.2(a) of the Declaration)
3. To ensure that the location and configuration of structures are visually harmonious with the terrain and vegetation of the land and with surrounding lots, structures and open space, and do not unnecessarily block scenic views from existing buildings or tend to dominate any general development or the natural landscape. (Section 10.2(b) of the Declaration)
4. To ensure that the architectural design of structures and their materials and colors are visually harmonious with the Ranch's over-all appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetation, and adheres to or complies with development plans, zoning requirements, and other restrictions officially approved by Declarant, the Association or any government or public authority, if any, for the sites in which the structures are proposed to be located. (Section 10.2(c) of the Declaration)
5. To ensure that plans for the landscaping of open spaces provide visually pleasing settings for structures on such Tracts and on adjoining and nearby Tracts and blend harmoniously with the natural landscape. (Section 10.2(d) of the Declaration)
6. To ensure that any development, structure, building or landscaping complies with the provisions of this Declaration. (Section 10.2(e) of the Declaration)
7. To ensure that building design and construction techniques respond to energy consumption and environmental quality considerations, such as heat loss, air emissions, and run-off water quality. (Section 10.2(f) of the Declaration)
8. To ensure that design of residential structures provides rooms of types and standards generally consistent through the Ranch. (Section 10.2(g) of the Declaration)
9. To ensure that placement of structures provides visually pleasing and ample space between such structures and structures on other Tracts. (Section 10.2(h) of the Declaration)
10. To ensure that plans comply with any Design Rules and Regulations adopted by the Architectural Committee, if any.

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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 circumstances 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 provides the Architectural Committee authority to grant variances relating to setback requirements (Section 7.4 of the Declaration), and roofing materials (Section 7.14 of the Declaration).

The Declaration provides a procedure to grant variances of the building material and dwelling size requirements as follows: In order to grant a variance, the Architectural Committee must receive a request in writing together with any information as may be requested by the Design Review Board and after review, submit the request for a variance, any accompanying information, and Architectural Committee's recommendation to the Board of Directors for approval or denial. (Section 7.12 of the Declaration)

In addition, the Architectural Committee may grant conditional variances (i.e., variances that are conditioned upon the continued existence of certain conditions) or temporary variances (i.e., variances that expire upon the expiration of specified period of time or upon an event, such as the sale of the lot).

ARTICLE VI Time Period for Review

The Declaration provides that the approval or consent of the Design Review Board on matters properly coming in before it shall not be unreasonably withheld, actions taken shall not be arbitrary or capricious and decisions shall be conclusive and binding on all interested parties, subject only to the right of appeal and review by the Board of Directors as set forth in Section 10.8 of the Declaration.

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 explanation 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

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on or before the thirtieth (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:

1. The proposed project will cause excessive or unsightly grading, indiscriminate earthmoving or clearing of property, removal of trees and vegetation which could cause disruption of natural watercourse or scar natural landforms.

2. The location and configuration of structures proposed are not visually harmonious with the terrain and vegetation of the land nor with surrounding lots, structures and open space, and/or unnecessarily block scenic views from existing buildings or tend to dominate any general development or the natural landscape.

3. The architectural design of structures proposed and the materials and/or colors are not visually harmonious with the Ranch's over-all appearance, history and cultural heritage, with surrounding development, with natural land forms and/or native vegetation, and/or does not adhere to or comply with development plans, zoning requirements, and other restrictions officially approved by Declarant, the Association or any government or public authority, if any, for the sites in which the structures are proposed to be located.

4. The proposed plans do not provide for the landscaping of open spaces to provide visually pleasing settings for structures on such Tracts and on adjoining and nearby Tracts and blend harmoniously with the natural landscape.

5. The proposed plans do not comply with the provisions of the Declaration.

6. The building design and construction techniques do not respond to energy consumption and environmental quality considerations, such as heat loss, air emissions, and run-off water quality.

7. The proposed residential structure(s) do not provide rooms of types and standards generally consistent through the Ranch.

8. The proposed placement of structures does not provide visually pleasing and ample space between such structures and structures on other Tracts.

9. The proposed project does not comply with provisions contained in the Design Rules and Regulations adopted by the Architectural Committee.

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 thirtieth (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 tenth (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 ten (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

WOLF CREEK RANCH OWNERS ASSOCIATION

Design Review Board

_____, 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 Design Review Board (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 project will cause excessive or unsightly grading, indiscriminate earthmoving or clearing of property, removal of trees and vegetation which could cause disruption of natural watercourse or scar natural landforms.
- The location and configuration of structures proposed are not visually harmonious with the terrain and vegetation of the land nor with surrounding lots, structures and open space, and/or unnecessarily block scenic views from existing buildings or tend to dominate any general development or the natural landscape.
- The architectural design of structures proposed and the materials and/or colors are not visually harmonious with the Ranch's over-all appearance, history and cultural heritage, with surrounding development, with natural land forms and/or native vegetation, and/or does not adhere to or comply with development plans, zoning requirements, and other restrictions officially approved by Declarant, the Association or any government or public authority, if any, for the sites in which the structures are proposed to be located.
- The proposed plans do not provide for the landscaping of open spaces to provide visually pleasing settings for structures on such Tracts and on adjoining and nearby Tracts and blend harmoniously with the natural landscape.
- The proposed plans do not comply with the provisions of the Declaration.
- The building design and construction techniques do not respond to energy consumption and environmental quality considerations, such as heat loss, air emissions, and run-off water quality.
- The proposed residential structure(s) do not provide rooms of types and standards generally consistent through the Ranch.