

**WESTGATE HOMEOWNERS; ASSOCIATION, INC.  
ARC APPOINTMENT POLICY**

STATE OF TEXAS                   §  
  §  
COUNTY OF HARRIS           §

WHEREAS Westgate Homeowners' Association, Inc., (hereinafter the "Association") is a Texas nonprofit corporation and the governing entity for Westgate, Sections 1-19, additions in Harris County, Texas, according to the maps or plats thereof, recorded in the Map Records of Harris County, Texas, under Clerks' File Nos. T604827, T604829, U724512, V097114 (amended by the plat amendment filed for record under Clerk's File No. V436228), W025187, W025189, X233368, 20090175679, Y919064, Y996634, Z109182, Z109187, Z109193, Z449894, 20070490176, 20070278774, 20080181600 (replatted by the replat filed for record at Clerk's File No. 20090279524); 20100198255; and, 20100198261, respectively, along with any replats, supplements, and amendments thereto (hereinafter the "Subdivision"); and,

WHEREAS the Subdivision is subject to the Declaration of Covenants, Conditions, restrictions and for Westgate Subdivision, recorded in the Real Property Records of Harris County, Texas, under Clerk's File No. T784481, along with any amendments, annexations, and supplements hereto (hereinafter the "Declaration"); and,

WHEREAS the Declaration vests the Association's architectural review authority in the Architectural Review Committee (hereinafter the "ARC"); and,

WHEREAS Article VIII of the Declaration provides that, subsequent to the declarant's period of control over the Subdivision, the Association's Board of Directors shall have the authority to appoint Owners in good standing to the ARC; and,

WHEREAS historically, the Association's Board of Directors has served as the ARC; and,

WHEREAS in 2021, Chapter 209 of the Texas Property Code was amended, in part, by adding a Section 209.00505, which provides that a person may not be appointed or elected to serve on an architectural review authority if the person is a current board member, a current board member's spouse, or a person residing in a current board member's household; and,

WHEREAS there is a need to enact an ARC appointment policy to implement a standard procedure for appointing members to the ARC in light of the Texas Property Code's newly-enacted prohibition on directors (and their spouses, etc.) serving on a property owners' association's architectural review authority; and,

WHEREAS to the extent this policy conflicts with any existing governing document or dedicatory instrument of the Association or Subdivision, this policy controls by virtue of such contrary provision being pre-empted by State law; and,

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WHEREAS to the extent any existing governing document or dedicatory instrument does not conflict with this policy or the Texas Property Code, such governing document or dedicatory instrument remains in full force and effect; and,

WHEREAS this Dedicatory Instrument constitutes Restrictive Covenants as those terms are defined by Texas Property Code §202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these Restrictive Covenants;

NOW THEREFORE, in view of the foregoing and in compliance with the Texas Property Code, the Association hereby adopts and imposes on the Subdivision and the Association the following ARC Appointment Policy:

**ARC APPOINTMENT POLICY**

1. Any person or party serving on or as the ARC as of the date this Policy is recorded shall continue to serve in that capacity until the first open board of directors meeting of 2022.

2. Each December subsequent to the recording of this Policy, no later than the 7<sup>th</sup> day of December, the Association shall solicit candidates from among the Association’s Owners for appointment to the ARC. The Association may solicit candidates by regular mail or electronic mail, or by any other reasonable means, as determined by the Association’s Board of Directors.

3. At the first open Board of Directors meeting of 2022, and at the first open Board of Directors meeting of each subsequent year, the Association’s Board of Directors shall appoint, from among those Owners who responded to the Association’s solicitation and those Owners currently serving on the ARC, at least three (3) Owners to the ARC. Such Owners shall serve on the ARC until the first open Board of Directors meeting of the subsequent year, subject to the Board’s authority as outlined herein.

- a. The following categories of persons cannot be appointed and/or elected to serve on the ARC:
  - i. serving board members;
  - ii. spouses of serving board members;
  - iii. persons cohabitating with serving board members.

4. The Association’s board of directors may remove any member of the ARC, with or without cause, by majority vote, at any open meeting of the board of directors. Further, any ARC member may resign from the ARC by providing written notice of said resignation to the Association’s board of directors, and such resignation shall be effective immediately upon the board’s receipt of such notice.

- a. In the event of the death, removal, or resignation of any member of the ARC, then at the first open board of directors meeting following the death, removal, or

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resignation of the ARC member, the Association's board of directors may appoint a replacement to serve the remainder of the former ARC member's term.

5. If, by the date of the first open Board of Directors meeting in any given year, fewer than three (3) Owners have responded to the Association's most recent solicitation for candidates for appointment to the ARC, the Board of Directors may, by majority vote, appoint the Association's designated representative (as designated on the Association's most recently recorded Property Owners' Association Management Certificate), or any third party, to serve as the ARC.

6. At any open meeting of the Board of Directors, the Board of Directors may (but is in no way required to) appoint one (1) director to serve as the board's Designated Representative to the ARC (hereinafter the "DRARC").

a. In the event the Board of Directors appoints a DRARC, the DRARC shall be entitled to attend meetings of the ARC for the purposes of advising the ARC as to the Association's restrictive covenants, architectural control requirements, and general community aesthetic, but in no event shall the DRARC review, consider, vote on, and/or participate in, the debate/discussion concerning, any application pending before the ARC.

**CERTIFICATION**

"I, the undersigned, being a Director of Westgate Homeowners' Association, Inc., hereby certify that the foregoing was adopted by at least a majority of Westgate Homeowners' Association, Inc.'s board of directors, at an open and properly noticed meeting of the board, at which a quorum of the board was present."

By: Kimberly McLaughlin  
Print name: Kimberly McLaughlin

Title: Secretary / Treasurer

**ACKNOWLEDGEMENT**

STATE OF TEXAS                   §  
  §  
COUNTY OF HARRIS           §

BEFORE ME, the undersigned authority, on this day personally appeared the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that they are the person who signed the foregoing document in their representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 17 day of Sept., 2021.

Sharon Ann Griffith  
Notary Public, State of Texas



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# Pages 4  
09/20/2021 02:23 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
TENESHIA HUDSPETH  
COUNTY CLERK  
Fees \$26.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Teneshia Hudspeth*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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