

BYLAWS
OF
THE SPRINGS AT STONE OAK OWNERS ASSOCIATION
A NON-PROFIT CORPORATION

[Note: this version of the Springs At Stone Oak Bylaws is a verbatim reproduction of the original Bylaws prepared, adopted, and approved by the Springs developers in 1997. This version reflects all of the official, recorded modifications that have made to the original document, and also includes annotated modifications generated by HOA-related laws adopted by the State Legislature. It includes footnotes at the end of the document to indicate the source of each modification, addition or deletion. **Added and changed text is highlighted in bold type**, while original text that has been deleted as a result of modifications are indicated by ~~strikethrough text~~. *Annotations to reflect State legislature HOA-related laws are indicated by bold and italicized text.*]

*[Document Manger: Gary Bushover]
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BYLAWS OF
THE SPRINGS AT STONE OAK OWNERS ASSOCIATION
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ARTICLE I - OFFICES

1.01 Principal Office. The principal office of the Association in the State of Texas shall be located at P.O. Box 96, Converse, Texas, or at such other location as may be determined by the Board of Directors from time to time, provided that notice of such new office location has been provided to the members of the Association. The Association may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require from time to time.

1.02 Registered Office and Registered Agent. The Association shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office of the Association in the State of Texas, and the address of the registered office and the registered agent may be changed from time to time by the Board of Directors.

ARTICLE II - MEMBERS

2.01 Voting Members. The Association shall have one class of member who shall be voting members, each of whom shall be entitled to one vote on each matter submitted to a vote of the members as required by these Bylaws, the Articles of Incorporation or applicable law. A Voting Member must be a homeowner in the Springs at Stone Oak. **Owners shall not be disqualified from voting for any reason. Each voting member shall qualify by the payment of annual assessments to the Association that shall qualify such member for the assessment year (or balance thereof) for which the assessment applies. The Board of Directors shall have the power to set the amount of the annual assessments for voting members from time to time as outlined in the Declaration of Covenants, Conditions and Restrictions for The Springs at Stone Oak (CCR's).**¹

2.02 Additional Classes of Members. There shall not be any additional classes of members.

~~2.03 Termination of Membership.—The Board of Directors, by affirmative vote of two-thirds (2/3) of all of the members of the Board, may suspend a member for cause after an appropriate hearing and may, by a majority vote of those present at any regularly constituted meeting, suspend any member who shall be in default in the payment of dues for the period fixed in Article XI of these Bylaws.~~¹

2.04 Resignation. Any member may resign by filing a written resignation with the Secretary, but such resignation shall not relieve the member so resigning of the obligation to pay any dues, assessments, or other charges.

2.05 Reinstatement. Upon written request signed by a former member and filed with the Secretary, a member may reinstate his membership in the Association upon payment of such annual dues as may be required and the fulfillment of such other qualifications as may be required for membership to which such member is seeking reinstatement. The Board of Directors may, by the affirmative vote of two-thirds (2/3) of the members of the Board, elect not to reinstate such former member to membership or only on such terms and conditions as the Board of Directors may deem appropriate.

2.06 Transfer of Membership. Membership in this Association is not transferable or assignable except to the new owner of the Lot previously owned by the member.

ARTICLE III - MEETINGS OF MEMBERS

3.01 Annual Meeting. An annual meeting of the members shall be held on ~~the first business day of November in each year, beginning with the year 1998, at the hour of 2:00 o'clock, P.M.,~~ **a business day during the month of November in each year, beginning with the year 2001, or at such time or place as the Board of Directors may designate,**⁹ for the purpose of electing those Directors whose terms of office have expired and for the transaction of other business as may come before the meeting. If the day fixed for the annual meeting shall be on a legal holiday in the State of Texas, such meeting shall be held on the next succeeding business day. If the election of Directors shall not be held on the day designated for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as possible.

If the Board of Directors fails to call an annual meeting, an owner may demand an election meeting and, if the Association again fails to call the meeting within thirty (30) days, three or more owners may form an election committee and cause an election to be held.²

3.02 Special Meeting. Special meetings of the members may be called by the President, the Board of Directors, or not less than one-tenth (1/10) of the members having voting rights.

3.03 Place of Meeting. The Board of Directors may designate any place, either within or without the State of Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the registered office of the Association in the State of Texas; but if all of the members shall meet at any time and place,

either within or without the State, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting, any Association action may be taken.

3.04 Notice of Meetings. **For member meetings involving an Association-wide election or vote,**² written or printed notice stating the place, day, and hour of any meeting of members shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than ten (10) nor more than ~~fifty (50)~~ **sixty (60)**² days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid.

3.05 Action by Unanimous Written Consent. Any action required by law to be taken at a meeting of the members or any action which may be taken at a meeting of the members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

3.06 Quorum. The members holding ~~ten percent (10%)~~ **fifty one percent (51%)**⁹ **twenty percent (20%)**¹¹ of the votes, which may be cast at any meeting, shall constitute a quorum at such meeting. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to a 30-day notice requirement and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Members voting by absentee or electronic ballot may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot.³

~~3.07 Proxies.—At any meeting of members, a member entitled to vote may vote by proxy executed in writing *and signed*¹ by the member or by his duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.~~⁴

~~3.08 Voting by Mail.—Where Directors or officers are to be elected by members, such election may be conducted by mail in such manner as the Board of Directors shall determine.~~⁴

3.07 Voting.

A. Owners may not be disqualified from voting for any reason.¹

B. Secret ballots are prohibited; all votes must be in writing and signed by the owner or his proxy. *Written and signed ballots are required for votes taken outside of a*

*meeting, elections to fill a position on the Board of Directors, proposed amendment or adoption of governing (dedicatory) instrument, annual assessment increases exceeding ten percent (10%), and special assessments. Written and signed ballots are not required for uncontested elections*¹⁶.

C. An owner's vote shall be cast or given in person or by proxy at a meeting of the Association, or by absentee ballot (*the Association must allow members to vote by proxy or by absentee ballot, but is not required to provide both means of voting*). Voting may also be offered by electronic ballot or by mail, but the Association is not required to offer those means.¹⁶

(1) Absentee ballot

(a) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person

(b) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot. A nomination taken from the floor in a Board member election is not considered an amendment to the proposal for the election.¹⁶

(c) A solicitation for votes by absentee ballot must include an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action; instructions for delivery of the completed absentee ballot; and the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(2) Electronic ballot is a ballot submitted by an owner by e-mail, facsimile, or posting on an Internet website, (1) for which the identity of the owner submitting the ballot can be confirmed, and (2) for which the owner may receive a receipt of the electronic transmission and receipt of the his ballot. A properly submitted electronic ballot is considered signed.

(a) if posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website

(b) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person

(c) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot

D. For an election or vote of members not taken at a meeting, notice of the election or vote will be given to all members not later than the 20th day before the latest date on which a ballot may be submitted to be counted.¹⁶

E. Election Vote Tabulators. A person who is running for election or is the subject of a vote, or is a close relative of either of the above, shall not have access to ballots for that election or vote. Only allowed vote tabulators or those allowed to recount shall have access to ballots, *and may not disclose to any other person how an individual voted.*¹⁶

F. Recount Procedures.

(1) The Association shall conduct a recount of an election vote if requested by an owner. The request shall be in writing by ~~certified~~ *verified* mail, ~~return receipt requested~~, or other USPS confirmation service or in person to the Association's managing agent within fifteen (15) days after the date of the election *or the date of the announcement of the results of the election or vote, whichever is later*¹⁶

~~(2) Cost of the recount shall be borne by the requesting owner, including the required cost to hire a qualified non-member to do the recount, unless the recount changes the results of the election, in which case the Association assumes responsibility for all recount costs.~~¹⁶

(2) *An estimate of the cost of the recount will be sent by invoice to the requesting owner not later than the 20th day after the request for recount is received by the Association. The requesting owner must pay the invoice in full within 30 days after the date the invoice is sent. If the invoice is not paid by the deadline, the owner's demand for a recount is considered withdrawn and a recount is not required.*

If the estimated costs for the recount are lesser or greater than the actual costs, the Association must send a final invoice to the owner before the 30th business day after the date the results of the recount are provided. If the final invoice includes additional amounts owed by the owner, any amounts not paid to the Association within 30 business days after the invoice is sent to the owner may be added to the owner's account as an assessment. If the estimated costs exceed the final invoice amount, the owner is entitled to a refund which will be paid at the time the final invoice is sent.

The recount must be completed within 30 days of receipt of the payment for a recount. The Association must provide each owner requesting the recount the results of the recount. If the recount changes the results of the election, the

*Association will reimburse the requesting owner for the cost of the recount within 30 days after the results of the recount are provided.*¹⁶

(3) The recount shall be conducted by a current or former county judge, county elections administrator, justice of the peace, or county voter registrar, or a person agreed on by the Association and *the* owner(s) requesting the recount.⁴

ARTICLE IV - BOARD OF DIRECTORS

4.01 General Powers. The affairs of the Association shall be managed by its Board of Directors. ~~Directors must be members in good standing of "The Springs at Stone Oak Owners Association".~~ **Except when the Board is presented with written, documented evidence that a Director or candidate for Director has been convicted of a felony or crime involving moral turpitude, or a person cohabits at the same primary residence with another Board member of the HOA¹⁹, there shall be no qualifications other than being a homeowner in The Springs At Stone Oak to qualify as a Board candidate or member. Any evidence of a felony conviction or crime involving moral turpitude *not more than twenty years before the date the evidence is presented to the Board*¹⁶ shall result in the Director being immediately removed from the Board and prohibited from future service.**⁵

4.02 Number, Tenure, and Qualifications. ~~The number of Directors may be increased or decreased by majority vote of the Members but never below three (3). The terms of Directors shall be staggered into one (1), two (2), and three (3) year terms. The Directors shall, as far as possible, maintain these staggered terms in determining the term of office for each vacancy. The term for each new Director shall then be assigned by lot at the first Directors' meeting following the annual meeting. The newly elected Director(s) shall draw either one (1), two (2), or three (3) year terms of those terms expiring at the annual meeting at which they were elected. The Directors serve and hold office until their successors are elected and qualified. This procedure shall be followed for each election of Directors thereafter.~~ **There shall be five Directors. Each Director shall serve a term of two years. For the Annual Meeting in 2012, the seats currently held by Gary Bushover and Carolyn Clark shall be up for election. The seats of the remaining Directors shall be up for election at the 2013 Annual Meeting.**¹² **A Director shall be immediately removed from the Board when he is no longer an owner of a lot in The Springs At Stone Oak or when written, documented evidence is presented to the Board that the Director ~~has been~~ *was* convicted of a felony or crime involving moral turpitude *not more than twenty years before the date the evidence is presented to the Board*¹⁶; once removed, the member is prohibited from future service on the Board.**⁵

4.03 Regular Meetings. A regular ~~monthly~~ **quarterly**⁹ meeting of the Board of Directors shall be held. The Board of Directors may provide by resolution the time and place, either within or without the State of Texas, for the holding of alternative or additional regular meetings of the Board without other notice than such resolution.

4.04 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board may fix any appropriate place within Bexar County, Texas, as the place for holding any special meetings of the Board called by them.

~~4.05 Notice.— Notice of any special meeting of the Board of Directors shall be given at least two days previously thereto by written notice delivered personally or sent by mail or telephone to each Director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.⁶~~

4.05 Open Meetings and Notice. Meetings of the Board of Directors (“Board”), regular and special, shall be open to all members, with some exceptions.

A. The Board shall give members notice of upcoming Board of Director meetings, regular and special, including the date, hour, location, and general subject of issues to be brought up in executive session. The notice shall be either mailed to owners ~~at least no later than ten (10) days or earlier than the 60th day~~ before the date of the meeting or provided at least ~~72~~ *144* hours before ~~the start of a regular board meeting and at least 72 hours before the start of a special board meeting~~ by (a) posting a notice in a conspicuous location, either in a common area ~~or on any internet website available to association members that is maintained by the association or by a management company on behalf of the association~~²⁰, and (b) being emailed to all owners who have registered their email address to the Association. Members have a duty to register and keep their email address updated with the Association.

B. Board meetings may be recessed and continued the next day without notice.

C. Board meetings may be held by electronic or telephonic means provided that:

(1) each Board member may hear and be heard by every other Board member

(2) except for any portion of the meeting conducted in Executive Session:

(A) all owners in attendance at the meeting may hear all Board members

(B) owners are allowed to listen using any electronic or telephonic communication method used or expected to be used by a Board member to participate

(3) the notice of the meeting includes instructions for owners to access any communication method that will be used by Board members¹⁵

D. Board meeting notice is not required if the Board takes action outside of a meeting, including voting by electronic or telephonic means, if each Board member is given a reasonable opportunity to express his opinion to all other Board members and to vote. ~~meets by telephone or electronically in any alternate manner whereby all Directors may speak and be heard by all other directors or by unanimous written consent on routine or administrative matters, or to address an urgent or emergency situation that requires immediate action~~¹⁶

E. The right of the Board to meet and vote without prior notice to members does not apply to the following matters:

- (1) fines**
- (2) damage assessments**
- (3) initiation of foreclosure actions**
- (4) initiation of enforcement actions**
- (5) increase in assessments**
- (6) levying special assessments**
- (7) suspending rights of an owner before the owner has an opportunity to appear before the Board**
- (8) appeals from a denial of Architectural Review Committee approval**
- (9) lending or borrowing money**
- (10) adoption or amendment of a dedicatory instrument**
- (11) approval of an annual budget or the approval of an amendment of an annual budget ~~that increases the budget by more than ten percent (10%)~~²⁰**
- (12) sale of purchase of real property**
- (13) filling of a vacancy on the Board**
- (14) construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements**
- (15) election of an officer¹⁶**

F. Actions taken without prior meeting notice shall be summarized orally, including any actual or estimated expenditures approved, and documented in the minutes of the next regular or special meeting.

G. The Board shall keep written minutes as a record of each regular and special meeting, and give owners access to approved minutes. Decisions made in executive sessions shall be summarized orally in general terms, including any expenditures approved, and recorded in the minutes.

H. The Board may adjourn an open board meeting and reconvene in a closed executive session for certain issues, including: personnel matters; litigation; contract negotiations; enforcement actions; confidential attorney communications; matters

involving the invasion of owners' privacy; or matters involving parties who have requested confidentiality and the Board has agreed to honor that request.⁶

4.06 Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but, if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

4.07 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

An action approved by the Board of Directors at a Board meeting may only be approved if a quorum of directors is present at the time of the approval; it is not enough to have a quorum of directors at the beginning of the Board meeting – an action of the Board may only be approved if there is a quorum of Directors still present at the time that the Board of Directors votes to approve such action.¹⁷

A Director's abstention to an action being voted on by the Board of Directors must be recorded in the meeting minutes or be sent in writing to the Secretary by certified or registered mail, return receipt requested, within a reasonable time after the meeting adjourns.¹⁸

4.08 Vacancies. Any vacancy occurring in the Board of Directors ~~as a result of a resignation, death, or disability⁷~~; or to be filled by reason of an increase in the number of Directors shall be filled by the Board of Directors. A Director ~~elected~~ **appointed** to fill a vacancy shall ~~be elected~~ **serve** for the **remainder of the** unexpired term of **the position his predecessor in office.**¹⁴

4.09 Compensation. Directors as such shall not receive any stated salaries for their services, but nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving reasonable compensation therefore, or the Board may authorize reimbursement of expenses actually incurred on behalf of the Association.

4.10 Action by Unanimous Written Consent. Any action required by law to be taken at a meeting of Directors, or any action, which may be taken at a meeting of Directors, may be taken without a meeting if consent in writing setting forth the action so taken shall be signed by all of the Directors.

4.11 Advisory Directors. The Board of Directors may from time to time designate one or more persons to act as "Advisory Directors." Advisory Directors shall receive notice of meetings of the Board and shall be entitled to attend meetings and participate in discussions of the Board, but shall not be entitled to vote on any matter decided by the Board of Directors.

4.12 Absenteeism. Members of the Board of Directors who cannot attend a stated meeting will notify the President, First Vice President or Second Vice President by telephone or email at least five (5) workdays in advance, if possible, of their intended absence.

ARTICLE V - OFFICERS

5.01 Officers. The officers of the Association shall be a President, one or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. The same person, except the offices of President and Secretary, may hold any two or more offices.

5.02 Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected ~~and shall have qualified.~~⁵

5.03 Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

5.04 Vacancies. A vacancy in any office ~~because of death, resignation~~¹⁶; ~~disqualification or otherwise disability~~⁵ shall be filled by the Board of Directors for the unexpired portion of the term.

5.05 President. The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the members and of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments and agreements which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Association; and in general he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

5.06 Vice President. In the absence of the President or in the event of his inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in order of their election) shall perform the duties of the President, and when so acting, shall have all the power of and be subject to all the restrictions upon the President.

Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

5.07 Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties, as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association and from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VII of these Bylaws; and in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors. At the discretion of the Board of Directors, certain responsibilities described herein may be officially delegated to a paid contract employee, i.e., Association Manager.

5.08 Secretary. The Secretary shall be responsible for taking, transcribing and keeping the minutes of all official proceedings of the Association, its members and of the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these Bylaws or as required by law; be custodian of the Association records and of the seal of the Association, and affix the seal of the Association to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these Bylaws; keep a register of the post-office address of each member which shall be furnished to the Secretary by each member; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

5.09 Assistant Treasurer and Assistant Secretaries. If required by the Board of Directors, the Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer, Secretary, President or the Board of Directors.

ARTICLE VI - COMMITTEES

6.01 Committees of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of two or more persons, a majority of whom are Directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the Board of Directors in the management of the Association. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing the Bylaws; electing, appointing, or removing any member of any such committee or any Director or officer of the Association; amending the Articles of Incorporation; adopting a plan of merger or adopting a plan of consolidation with another Association; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Association; authorizing the voluntary dissolution of the Association or revoking proceedings

therefore; adopting a plan for the distribution of the assets of the Association; or amending, altering or repealing any resolution of the Board of Directors which, by its terms, provides that it shall not be amended, altered, or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed on it or him by law.

6.02 Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the Association may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Association, and the President of the Association shall appoint the members thereof. Any members thereof may be removed by the person or persons authorized to appoint such member whenever, in their judgment, the best interests of the Association shall be served by such removal.

6.03 Term of Office. Each member of a committee shall continue as such until the next annual meeting of the members of the Association and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

6.04 Chairman. One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

6.05 Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

6.06 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

6.07 Rules. Each committee may adopt rules for its own government and not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE VII - CONTRACTS, CHECKS, DEPOSITS, AND FUNDS

7.01 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association provided that such contract or instrument is not in violation of these Bylaws, the Articles of Incorporation or applicable law. Such authority may be general or confined to specific instances.

The Association may enter into a contract with a current Board member, a person related to a current Board member, or a company in which a current Board member or a relative of his has at least 51% financial interest only if the following conditions are satisfied:

- (1) the Association has received at least two other bids for the contract from persons not associated with the Board member, relative, or company*
- (2) the Board member*
 - (A) is not given access to the other bids*
 - (B) does not participate in any Board discussion regarding the contract*
 - (C) does not vote on the award of the contract*
- (3) the relationship or interest with respect to the proposed contract are disclosed to or known by the Board*
- (4) the Board certifies by resolution that the requirements (1) through (3), above, have been satisfied¹⁵*

7.02 Checks and Drafts. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Association.

7.03 Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select.

7.04 Gifts. The Board of Directors may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE VIII - CERTIFICATE OF MEMBERSHIP

8.01 Certificates of Membership. The Board of Directors may, but are not required, to provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board. Such certificates shall be signed by the President or Vice President and by the Secretary or an Assistant Secretary and shall be sealed with the seal of the Association. All certificates evidencing membership shall be consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the Association. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued therefore on such terms and conditions as the Board of Directors may determine.

8.02 Issuance of Certificates. When a member has been elected to membership ~~and has paid any dues that may then be required,~~¹ a certificate of membership shall be issued in his name and delivered to him by the Secretary, if the Board of Directors shall have provided for the issuance of certificates of membership under the provisions of Paragraph 8.01 of this Article VIII.

ARTICLE IX - BOOKS AND RECORDS

9.01 The Association shall keep correct and complete books and records of account in accordance with all applicable laws, and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office, a record giving the names and addresses of the members ~~entitled to vote.~~¹ ~~Any member, his agent or attorney may inspect all books and records of the Association for any proper purpose.~~⁸

9.02 Recording Governing Documents. All governing documents and dedicatory instruments, including the Articles of Incorporation; Declaration of Covenants, Conditions, and Restrictions (CCRs); Bylaws; Resolutions; Articles; Amendments; and Rules, shall be recorded in the Bexar County Real Property Records. Unrecorded instruments are of no effect and unenforceable.

9.03 Website Posting of Records. All governing documents and dedicatory instruments, including the Articles of Incorporation; Declaration of Covenants, Conditions, and Restrictions (CCRs); Bylaws; Resolutions; Articles; Amendments; and Rules, shall be displayed on the Association's public website.

9.04 Records Policy Letters. The Association shall adopt and record policies relating to Open Records, including Records Production and Copying, and Records Retention.⁸

A. Records Production and Copying Policy

(1) Association Records shall be reasonably available to every owner. An owner may also provide access to Records to any other person (such as an attorney, CPA or agent) they designate in writing as their proxy for this purpose. To ensure a written proxy is actually from the owner, the owner must include a copy of his/her photo ID or have the proxy notarized.

(2) An owner, or their proxy as described in section 1, must submit a written request for access to or copies of Records. The letter must:

(a) be sent by certified mail to the Association's address as reflected in its most recent Management Certificate filed in the County public records; and

(b) contain sufficient detail to identify the specific Records being requested; and

(c) indicate whether the owner or proxy would like to inspect the Records before possibly obtaining copies or if the specified Records should be forwarded. If forwarded, the letter must indicate the format, delivery method and address:

- 1. format: electronic files, compact disk or paper copies**
- 2. delivery method: email, certified mail or pick-up**

(3) Within ten (10) business days of receipt of the request specified in section 2 above, the Association shall provide:

(a) the requested Records, if copies were requested and any required advance payment had been made; or

(b) a written notice that the Records are available and offer dates and times when the Records may be inspected by the owner or their proxy during normal business hours at the office of the Association; or

(c) a written notice that the requested Records are available for delivery once a payment of the cost to produce the records is made and stating the cost thereof; or

(d) a written notice that a request for delivery does not contain sufficient information to specify the Records desired, the format, the delivery method and the delivery address; or

(e) a written notice that the requested Records cannot be produced within ten (10) business days but will be available within fifteen (15) additional business days from the date of the notice and payment of the cost to produce the records is made and stating the cost thereof.

(4) The following Association Records are not available for inspection by owners or their proxies:

(a) the financial records associated with an individual owner

(b) deed restriction violation details for an individual owner; and

(c) personal information, including contact information other than an address for an individual owner

(d) attorney files and records in the possession of the attorney

(e) attorney-client privileged information in the possession of the Association.

The information in a, b and c above will be released if the Association receives express written approval from the owner whose records are the subject of the request for inspection.

(5) Association Records may be maintained in paper format or in an electronic format. If a request is made to inspect Records and certain Records are maintained in electronic format, the owner or their proxy will be given access to equipment to view the electronic records. Association shall not be required to transfer such electronic records to paper format unless the owner or their proxy agrees to pay the cost of producing such copies.

(6) If an owner or their proxy inspecting Records requests copies of certain Records during the inspection, Association shall provide them promptly, if possible, but no later than ten (10) business days after the inspection or payment of costs, whichever is later.

(7) The owner is responsible for all costs associated with a request under this Policy, including but not limited to copies, postage, supplies, labor, overhead and third party fees (such as archive document retrieval fees from off-site storage locations) as listed below:

- (a) black and white 8½”x11” single sided copies ... \$0.10 each**
- (b) black and white 8½”x11” double sided copies ... \$0.20 each**
- (c) color 8½”x11” single sided copies ... \$0.50 each**
- (d) color 8½”x11” double sided copies ... \$1.00 each**
- (e) PDF images of documents ... \$0.10 per page**
- (f) compact disk ... \$1.00 each**
- (g) labor and overhead ... \$18.00 per hour**
- (h) mailing supplies ... \$1.00 per mailing**
- (i) postage ... at cost**
- (j) other supplies ... at cost**
- (k) third party fees ... at cost**

(8) Any costs associated with a Records request must be paid in advance of delivery by the owner or their proxy to the Association’s Managing Agent. An owner who makes a request for Records and subsequently declines to accept delivery will be liable for payment of all costs under this Policy.

(9) On a case-by-case basis, in the absolute discretion of the Association, and with concurrence of the owner, the Association may agree to invoice the cost of the Records request to the owner’s account. Owner agrees to pay the total amount invoiced within thirty (30) days after the date a statement is mailed to the Owner. Any unpaid balance will accrue interest as an assessment as allowed under the Declarations.

(10) On a case-by-case basis where an owner request for Records is deemed to be minimal, the Association or its managing agent reserves the right to waive notice under section 2 and/or fees under section 4.

B. Document Retention Policy

(1) Association Documents may be maintained in paper format or in an electronic format that can be readily transferred to paper.

(2) Association Documents shall be retained for the durations listed below:

(a) certificate of formation or articles of incorporation, bylaws, restrictive covenants, other dedicatory instruments and any amendments to same shall be retained permanently; and

(b) financial books and records, including annual budgets, reserve studies, monthly financial statements and bank statements, shall be retained for seven (7) years (for example the July 2011 financial statements shall be retained until July 31, 2018); and

(c) account records of current owners shall be retained for five (5) years (for example, invoice, payment and adjustment records on an owner's account with a transaction date of 08/15/2011 will be retained until 08/15/2016 subject to section (d) below); and

(d) account records of former owners shall be retained as a courtesy to that former owner for one (1) year after they no longer have an ownership interest in the property; and

(e) contracts with a term of one year or more shall be retained for four (4) years after the expiration of the contract term (for example, a contract expiring on 06/30/2011 and not extended by amendment must be retained until 06/30/2015); and

(f) minutes of meetings of the owners and the Board shall be retained for seven (7) years after the date of the meeting (for example, minutes from a 07/20/2011 board meeting must be retained until 07/20/2018); and

(g) tax returns and CPA audit records shall be retained for seven (7) years after the last date of the return or audit year (for example, a tax return for the calendar year 2011 shall be retained until 12/31/2018); and

(h) decisions of the Architecture Review Committee regarding applications, variances, waivers or related

improvement matters associated with individual properties shall be retained for seven (7) years from the decision date (for example, an application for a swimming pool approved on 10/31/2011 must be retained until 10/31/2018).

(3) Any Documents not described above may be retained for the duration deemed to be useful to the purpose of the Association, in the discretion of the Board, its attorney or its managing agent.

(4) Upon expiration of the retention period listed above, the Documents shall no longer be considered Association records and may be destroyed, discarded, deleted, purged or otherwise eliminated.

ARTICLE X - FISCAL YEAR

10.01 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the last day in December in each year.

ARTICLE XI (A) - DUES

11.01 Annual Dues. The Board of Directors may determine from time to time the amount of the annual dues payable to the Association by members.

11.02 Payment of Dues. Dues shall be payable in advance on the first day of January in each fiscal year or as the Board of Directors may, from time to time, provide. Dues of new members shall be payable in the amount and at the time to be determined by resolution of the Board of Directors.

11.03 Default and Termination of Membership. When any member shall be in default in the payment of dues for a period of sixty (60) days from the beginning of the fiscal year or period for which such dues become payable, ~~his membership may thereupon be terminated by the Board of Directors in the manner provided in Article II of these Bylaws, and the~~ Association may proceed to collect unpaid assessments, plus interest and fees, in accordance with the provisions of the CCR's.¹

~~11.04 Late Charge. In addition to interest charged, as provided for in the Covenants, Conditions and Restrictions (CCR's), a late charge of \$25.00 will be charged any member who fails to pay his assessments by the designated due date. The assessments will not be considered paid in full until this late charge is paid, and the Board of Directors may take appropriate action as outlined in the CCR's, Article XXXV, Effect of Non-Payment of Assessments: The Lien; Remedies of the Association, page 21, should the charges remain unpaid.⁹~~

ARTICLE XI (B)
RULES FOR ENFORCING DECLARATIONS OF COVENANTS, CONDITIONS
AND RESTRICTIONS (FINE) & ADOPTION OF WENONAH BLEVINS
RESIDENTIAL PROPERTY OWNERS PROTECTION ACT

11.05 Rules for Enforcing Declarations of Covenants, Conditions and Restrictions (Fine) & Adoption of Wenonah Blevins Residential Property Owners Protection Act (the “Act”), attached hereto (Appendix B) and made a part hereof for all purposes by incorporation by reference. The following rules and regulations have been enacted to enforce the Restrictions contained in the Declarations of Covenants, Conditions and Restrictions (CCR) for The Springs at Stone Oak pertaining to each Lot Owner at The Springs at Stone Oak. These rules are promulgated to preserve and protect the property values of the homeowners, the common area properties of the Owners Association and to abate potential nuisances.

A. These rules apply to all Lot Owners, and in their absence, those occupying the premises.

B Failure to obey any of the Restrictions, including but not limited to: landscape and lawn maintenance (Art. XII); vehicle parking or storage (Art. XIV); pets (Art. XVIII); doing or failure to do any act that is a nuisance (Art XV) and/or any of the other Restrictions in the CCR’s, shall, after due violation notice to the Owner, as provided in Sections 209.006 et seq of the “Act”, cause the offender to be fined in the form of a special assessment as hereinafter set out and/or an order to take corrective action within a set period of time. Failure to correct within the time set will result in the levy of the fine and any other available action.

C. The fine will be determined by the Board or hearing committee on a case-by-case basis after the procedures of the “Act” are followed. It will be levied against the offending Owner for each violation. The amount will take into account, and if appropriate to the facts of the case, the cost of the Association having to take the corrective action should the Owner fail to do so. If the corrective expenses exceed the amount, the Board of Directors will, if it so decides, take the action set out in the “Act” and the Declarations, Article XXX, Enforcement, by proceeding against the Owner with appropriate legal proceedings.¹⁰

ARTICLE XII - INDEMNIFICATION

12.01 Indemnification.

A. The Association may indemnify a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a

Director of the Association only if it is determined in accordance with paragraph E of this Section 12.01 that the person:

(1) conducted himself in good faith;

(2) reasonably believed;

(a) in the case of conduct in his official capacity as a Director of the Association, that his conduct was in the Association's best interest; and,

(b) in all other cases, that his conduct was at least not opposed to the Association's best interests; and,

(3) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful.

B. Except to the extent permitted by paragraph D of this Section 12.01, a Director may not be indemnified under paragraph A of this Section in respect of a proceeding:

(1) in which the person is found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the person's official capacity; or,

(2) in which the person is found liable to the Association.

C. The termination of a proceeding by judgment, order, settlement, or conviction, or on a plea of nolo contendere or its equivalent is not of itself determinative that the person did not meet the requirements set forth in paragraph A of this Section 12.01. A person shall be deemed to have been found liable in respect of any claim, issue or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom.

D. A person may be indemnified under paragraph A of this Section 12.01 against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with the proceeding; but if the person is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the person, the indemnification:

(1) is limited to reasonable expenses actually incurred by the person in connection with the proceeding; and,

(2) shall not be made in respect of any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of his duty to the Association.

E. A determination of indemnification under paragraph A of this Section 12.01 must be made:

(1) by a majority vote of a quorum consisting of Directors who at the time of the vote are not named defendants or respondents in the proceeding;

(2) if such quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated to act in the matter by a majority vote of all Directors, consisting solely of two or more Directors who at the time of the vote are not named defendants or respondents in the proceeding;

(3) by special legal counsel selected by the Board of Directors or a committee of the Board by vote as set forth in subparagraph (1) or (2) of this Section 12.01 E., or, if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all Directors; or,

(4) by the members in a vote that excludes the vote of Directors who are named defendants or respondents in the proceeding.

F. Authorization of indemnification and determination as to reasonableness of expenses must be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses must be made in the manner specified by subparagraph (3) of Section 12.01 E. for the selection of special legal counsel.

G. The Association shall indemnify a Director against reasonable expenses incurred by him in connection with a proceeding in which he is a party because he is a Director if he has been wholly successful, on the merits or otherwise, in the defense of the proceeding.

H. Reasonable expenses incurred by a Director who was, is, or is threatened to be made a named defendant or respondent in a proceeding may be paid or reimbursed by the Association, in advance of the final disposition of the proceeding and without any of the determinations specified in paragraphs E and F of this Section 12.01, after the Association receives a written affirmation by the Director of his good faith belief that he has met the standard of conduct necessary for indemnification under this Section 12.01 and a written undertaking by or on behalf of the Director to repay the amount paid or reimbursed if it is ultimately determined that he has not met those requirements.

I. The written undertaking required by paragraph H of this Section 12.01 must be an unlimited general obligation of the Director but need not be secured. It may be accepted without reference to financial ability to make repayment.

J. Notwithstanding any other provision of this Section 12.01, the Association may pay or reimburse expenses incurred by a Director in connection with his appearance as a witness or other participation in a proceeding at a time when he is not a named defendant or respondent in the proceeding.

K. An officer of the Association shall be indemnified as, and to the same extent, provided in paragraph G of this Section 12.01 for a Director and is entitled to seek indemnification under that paragraph to the same extent as a Director. The Association may indemnify and advance expenses to an officer, employee, or agent of the Association to the same extent that it may indemnify and advance expenses to Directors under this Section 12.01.

L. The Association may indemnify and advance expenses to persons who are not or were not officers, employees, or agents of the Association but who are or were serving at the request of the Association as a Director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary to the same extent that it may indemnify and advance expenses to Directors under this Section 12.01.

M. The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a Director, officer, employee or agent of the Association or who is or was serving at the request of the Association as a Director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, other enterprise, or employee benefit plan, against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a person, whether or not the Association would have the power to indemnify him against that liability under this Section 12.01. If the insurance or other arrangement is with a person or entity that is not regularly engaged in the business of providing insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Association would not have the power to indemnify the person only if including coverage for the additional liability has been approved by the members of the Association. Without limiting the power of the Association to procure or maintain any kind of insurance or other arrangement, an Association may, for the benefit of persons indemnified by the Association:

- (1) create a trust fund;
- (2) establish any form of self-insurance;
- (3) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Association; or,
- (4) establish a letter of credit, guaranty, or surety arrangement.

The insurance or other arrangement may be procured, maintained, or established within the Association or with any insurer or other person deemed appropriate by the Board of Directors. In the absence of fraud, the judgment of the Board of Directors as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive, and the insurance or arrangement shall not be voidable and shall not subject the Directors approving the insurance or arrangement to liability, on any ground, regardless of whether Directors participating in the approval are beneficiaries of the insurance or arrangement.

N. Any indemnification of or advance of expenses to a Director in accordance with this Section 12.01 shall be reported in writing to the members with or before the notice or waiver of notice of the next members' meeting or with or before the next submission to members of a consent to action without a meeting pursuant to Article 9.10(A) of the Texas Business Corporation Act and, in any case, within the 12-month period immediately following the date of indemnification or advance.

O. As used in these Bylaws, the following terms have the meanings set forth below:

(1) 'Association' includes any domestic or foreign predecessor entity of the Association in a merger, consolidation, or other transaction in which the liabilities of the predecessor are transferred to the Association by operation of law and in any other transaction in which the Association assumes the liabilities of the predecessor but does not specifically exclude liabilities that are the subject matter of this Section 12.01.

(2) 'Director' means any person who is or was a Director of the Association and any person who, while a Director of the Association, is or was serving at the request of the Association as a Director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary.

(3) 'Expenses' include court costs and attorneys' fees.

(4) 'Official capacity' means:

(a) when used with respect to a Director, the office of Director in the Association; and,

(b) when used with respect to a person other than a Director, the elective or appointive office in the Association held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the Association.

(5) 'Proceeding' means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

12.02 Other Indemnification. The foregoing rights of indemnification and reimbursement shall not be exclusive of any other right to which any such person may be entitled by law, Bylaw, agreement, members' vote or otherwise.

ARTICLE XIII - TELEPHONE MEETINGS

13.01 Subject to the requirements of the Texas Non-Profit Corporation Act, as

amended, or these Bylaws for notice of meetings, members of the Association, members of the Board of Directors, or members of any committee designated by the Board of Directors may participate in and hold a meeting of such members, Board or committee by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 13.01 shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

[See also Article 4.05C, Board Meetings by Electronic or Telephonic Means]¹⁵

ARTICLE XIV - WAIVER OF NOTICE

14.01 Whenever any notice is required to be given under the provisions of the Texas Non-Profit Corporation Act or under the provisions of the Articles of Incorporation or the Bylaws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XV - AMENDMENTS TO BYLAWS

15.01 ~~These Bylaws may be altered, amended, or repealed and new Bylaws may be Adopted by a majority of the Directors present at any regular meeting or at any special meeting, if at least two (2) days written notice is given of an intention to alter, amend, or repeal these Bylaws or to adopt new Bylaws at such meeting.~~ **changed and new Bylaws may be adopted at a regular or special meeting of the members by a vote of a majority of a quorum of the members present in person or acting by proxy.⁹ These Bylaws may be altered, amended, or changed and new Bylaws may be adopted at a regular or special meeting of the members by a vote of a majority of a quorum of the members present in person, acting by proxy, or by submission of absentee or electronic ballot. The Board of Directors may not repeal or amend these Bylaws.¹³**

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November, 2001.

BY: *Beverly Cox*
President
Springs at Stone Oak Owners Association

ATTEST: *Christine Siegel*
Secretary
Springs at Stone Oak Owners Association

APPENDIX A

FOOTNOTES

¹Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0059, dealing with owner voting rights, and effective on September 1, 2011. The amendment to the Springs Bylaws was recorded on December 30, 2011.

²Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0056, dealing with notice requirements for member meetings that include Association-wide election or vote, and effective on January 1, 2012. The amendment to the Springs Bylaws was recorded on December 30, 2011.

³Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Sections 209.00592 and 209.00593, dealing with voting and the use of electronic and absentee ballots, and effective on September 1, 2011. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁴Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0057, 209.0058, 209.0059(a), 209.00592, 209.00593, and 209.00594 dealing with voting at member meetings, and effective on September 1, 2011 or January 1, 2012. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁵Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Sections 209.00591 and 209.00592, dealing with Director qualifications, and effective on September 1, 2011. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁶Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0051, dealing with Open Board Meetings, and effective on January 1, 2012. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁷Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.00593, dealing with the appointment of Directs, and effective on January 1, 2012. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁸Statutory requirements included in the amendment to chapters 202, 207, and 209 of the Texas Property Code by the Texas State Legislature, which added Sections 202.006, 207.006, and 209.005., dealing with Association records and documents, and effective on January 1, 2012. The amendment to the Springs Bylaws was recorded on December 30, 2011.

⁹Amendment to the Springs at Stone Oak Bylaws approved by the Springs HOA Board of Directors on October 10, 2000 and affirmed by a majority of HOA members at the Annual General Members Meeting conducted November 14, 2000. This amendment to the Springs Bylaws was recorded on December 26, 2007. *[Note: the amendment was superseded by the 2012 Board Resolution to the CCRs, Reasonable Late Fees, which was superseded by the 2021*

Collections Policy, incorporated into the CCRs.. CCR provisions are higher precedent than Bylaw provisions]

¹⁰Amendment to the Springs at Stone Oak Bylaws approved by a majority of HOA members at the Annual General Members Meeting conducted November 13, 2001, which included attaching the Wenonah Blevins Residential Property Protection Act in its entirety to the Bylaws. That Act was adopted by the Texas Legislature in 2001 and effective on January 1, 2002. This amendment to the Springs Bylaws was recorded on December 26, 2007.

¹¹Amendment to the Springs at Stone Oak Bylaws approved by a majority of the Board of Directors at a Special Board Meeting conducted on March 7, 2012. This amendment to the Springs Bylaws was recorded on March 9, 2012.

¹²Amendment to the Springs at Stone Oak Bylaws approved by a majority of the Board of Directors at a Special Board Meeting conducted on March 7, 2012. This amendment to the Springs Bylaws was recorded on March 9, 2012. (Note: the portion of the Amendment that changed the term of office for Directors from staggered one, two, and three years to standard two year terms was initially adopted by an Amendment approved by a majority of HOA members at the Annual General Members Meeting conducted on February 10, 2004. However, that Amendment was not recorded at the County Clerk office and thereby became not in effect on January 1, 2012.)

¹³Amendment to the Springs at Stone Oak Bylaws approved by a majority of HOA members at a Special Members Meeting conducted on June 26, 2012. This amendment to the Springs Bylaws was recorded on September 13, 2012.

¹⁴Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which modified Section 209.00593(a), dealing with mid-term vacancies on an HOA's Board of Directors. The State amendment was approved and effective September 1, 2013.

¹⁵Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature in 2013. The State amendment was approved and effective September 1, 2013.

¹⁶Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature in 2015. The State amendment was approved and effective September 1, 2015.

¹⁷Statutory requirements included in the amendment to Section 22.214 of the Texas Business Organizations Code by the Texas State Legislature in 2017. The State amendment was approved and effective September 1, 2017.

¹⁸Statutory requirements included in the amendment to Section 22.227 of the Texas Business Organizations Code by the Texas State Legislature in 2017. The State amendment was approved and effective September 1, 2017.

¹⁹Statutory requirements included in the amendment to Section 209.00591 of the Texas Property Code by the Texas State Legislature in 2019. The State amendment was approved and effective September 1, 2019.

²⁰Statutory requirements included in the amendment to Section 209.0051 of the Texas Property Code by the Texas State Legislature in 2021. The State amendment was approved and effective September 1, 2021.

APPENDIX B

TEXAS RESIDENTIAL PROPERTY OWNERS PROTECTION ACT

Senate Bill No. 507

(Effective January 1, 2002)

AN ACT relating to residential subdivisions that require membership in a property owners' association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 11, Property Code, is amended by adding Chapter 209 to read as follows:

CHAPTER 209. TEXAS RESIDENTIAL PROPERTY OWNERS PROTECTION ACT

Sec. 209.001. SHORT TITLE. This chapter may be cited as the Texas Residential Property Owners Protection Act.

Sec. 209.002. DEFINITIONS. In this chapter:

(1) "Assessment" means a regular assessment, special assessment, or other amount a property owner is required to pay a property owners' association under the dedicatory instrument or by law.

(2) "Board" means the governing body of a property owners' association.

(3) "Declaration" means an instrument filed in the real property records of a county that includes restrictive covenants governing a residential subdivision.

(4) "Dedicatory instrument" means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision. The term includes restrictions or similar instruments subjecting property to restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association, to properly adopted rules and regulations of the property owners' association, and to all lawful amendments to the covenants, bylaws, rules, or regulations.

(5) "Lot" means any designated parcel of land located in a residential subdivision, including any improvements on the designated parcel.

(6) "Owner" means a person who holds record title to property in a residential subdivision and includes the personal representative of a person who holds record title to property in a residential subdivision.

(7) "Property owners' association" or "association" means an incorporated or unincorporated association that:

(A) is designated as the representative of the owners of property in a residential subdivision;

(B) has a membership primarily consisting of the owners of the property covered by the dedicatory instrument for the residential subdivision; and

(C) manages or regulates the residential subdivision for the benefit of the owners of property in the residential subdivision.

(8) "Regular assessment" means an assessment, a charge, a fee, or dues that each owner of property within a residential subdivision is required to pay to the property owners' association on a regular basis and that is designated for use by the property owners' association for the benefit of the residential subdivision as provided by the restrictions.

(9) "Residential subdivision" or "subdivision" means a subdivision, planned unit development, townhouse regime, or similar planned development in which all land has been divided into two or more parts and is subject to restrictions that:

(A) limit a majority of the land subject to the dedicatory instruments, excluding streets, common areas, and public areas, to residential use for single-family homes, townhomes, or duplexes only;

(B) are recorded in the real property records of the county in which the residential subdivision is located; and

(C) require membership in a property owners' association that has authority to impose regular or special assessments on the property in the subdivision.

(10) "Restrictions" means one or more restrictive covenants contained or incorporated by reference in a properly recorded map, plat, replat, declaration, or other instrument filed in the real property records or map or plat records. The term includes any amendment or extension of the restrictions.

(11) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.

(12) "Special assessment" means an assessment, a charge, a fee, or dues, other than a regular assessment, that each owner of property located in a residential subdivision is required to pay to the property owners' association, according to procedures required by the dedicatory instruments, for:

(A) defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a

capital improvement in common areas owned by the property owners' association, including the necessary fixtures and personal property related to the common areas;

(B) maintenance and improvement of common areas owned by the property owners' association; or

(C) other purposes of the property owners' association as stated in its articles of incorporation or the dedicatory instrument for the residential subdivision.

Sec. 209.003. APPLICABILITY OF CHAPTER.

(a) This chapter applies only to a residential subdivision that is subject to restrictions or provisions in a declaration that authorize the property owners' association to collect regular or special assessments on all or a majority of the property in the subdivision.

(b) This chapter applies only to a property owners' association that requires mandatory membership in the association for all or a majority of the owners of residential property within the subdivision subject to the association's dedicatory instruments.

(c) This chapter applies to a residential property owners' association regardless of whether the entity is designated as a "homeowners' association," "community association," or similar designation in the restrictions or dedicatory instrument.

(d) This chapter does not apply to a condominium development governed by Chapter 82.

Sec. 209.004. MANAGEMENT CERTIFICATES.

(a) A property owners' association shall record in each county in which any portion of the residential subdivision is located a management certificate, signed and acknowledged by an officer or the managing agent of the association, stating:

(1) the name of the subdivision;

(2) the name of the association;

(3) the recording data for the subdivision;

(4) the recording data for the declaration;

(5) the mailing address of the association or the name and mailing address of the person managing the association; and

(6) other information the association considers appropriate.

(b) The property owners' association shall record an amended management certificate not later than the 30th day after the date the association has notice of a change in any information

in the recorded certificate required by Subsection (a).

(c) The property owners' association and its officers, directors, employees, and agents are not subject to liability to any person for a delay in recording or failure to record a management certificate, unless the delay or failure is willful or caused by gross negligence.

Sec. 209.005. ASSOCIATION RECORDS.

(a) A property owners' association shall make the books and records of the association, including financial records, reasonably available to an owner in accordance with Section B, Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23, Vernon's Texas Civil Statutes).

(b) An attorney's files and records relating to the association, excluding invoices requested by an owner under Section 209.008(d), are not:

- (1) records of the association;
- (2) subject to inspection by the owner; or
- (3) subject to production in a legal proceeding.

Sec. 209.006. NOTICE REQUIRED BEFORE ENFORCEMENT ACTION.

(a) Before a property owners' association may suspend an owner's right to use a common area, file a suit against an owner other than a suit to collect a regular or special assessment or foreclose under an association's lien, charge an owner for property damage, or levy a fine for a violation of the restrictions or bylaws or rules of the association, the association or its agent must give written notice to the owner by certified mail.

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and

(2) except as provided by Subsection (d), inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension if the violation is of a curable nature and does not pose a threat to public health or safety;

(B) may request a hearing under Section 209.007 on or before the 30th day after the date the notice was mailed the owner;

(C) may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the owner is serving on active military duty;

(3) specify the date by which the owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety; and

(4) be sent by verified mail to the owner at the owner's last known address as shown on the association records.

(c) The date specified in the notice under Subsection (b)(3) must provide a reasonable period to cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety.

(d) Subsections (a) and (b) do not apply to a violation for which the owner has been previously given notice under this section and the opportunity to exercise any rights available under this section in the preceding six months.

(e) If the owner cures the violation before the expiration of the period for cure described by Subsection (c), a fine may not be assessed for the violation.

(f) For purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident.

(g) For purposes of this section, a violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For purposes of this subsection, the nonrepetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy.

(h) The following are examples of acts considered incurable for purposes of this section:

- (1) shooting fireworks;
- (2) an act constituting a threat to health or safety;
- (3) a noise violation that is not ongoing;
- (4) property damage, including the removal or alteration of landscape; and
- (5) holding a garage sale or other event prohibited by a dedicatory instrument.

(i) The following are examples of acts considered curable for purposes of this section:

- (1) a parking violation;
- (2) a maintenance violation;

(3) the failure to construct improvements or modifications in accordance with approved plans and specifications; and

(4) an ongoing noise violation such as a barking dog.

Sec. 209.007. HEARING BEFORE BOARD; ALTERNATIVE DISPUTE RESOLUTION.

(a) If the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the board of the property owners' association or before the board if the board does not appoint a committee.

(b) If a hearing is to be held before a committee, the notice prescribed by Section 209.006 must state that the owner has the right to appeal the committee's decision to the board by written notice to the board.

(c) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting.

(d) The notice and hearing provisions of Section 209.006 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

(e) An owner or property owners' association may use alternative dispute resolution services.

Sec. 209.008. ATTORNEY'S FEES.

(a) A property owners' association may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the association relating to collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association only if the owner is provided a written notice that attorney's fees and costs will be charged to the owner if the delinquency or violation continues after a date certain.

(b) An owner is not liable for attorney's fees incurred by the association relating to a matter

described by the notice under Section 209.006 if the attorney's fees are incurred before the conclusion of the hearing under Section 209.007 or, if the owner does not request a hearing under that section, before the date by which the owner must request a hearing. The owner's presence is not required to hold a hearing under Section 209.007.

(c) All attorney's fees, costs, and other amounts collected from an owner shall be deposited into an account maintained at a financial institution in the name of the association or its managing agent. Only members of the association's board or its managing agent or employees of its managing agent may be signatories on the account.

(d) On written request from the owner, the association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the association seeks reimbursement of fees and costs.

(e) The notice provisions of Subsection (a) do not apply to a counterclaim of an association in a lawsuit brought against the association by a property owner.

(f) If the dedicatory instrument or restrictions of an association allow for nonjudicial foreclosure, the amount of attorney's fees that a property owners' association may include in a nonjudicial foreclosure sale for an indebtedness covered by a property owners' association's assessment lien is limited to the greater of:

(1) one-third of the amount of all actual costs and assessments, excluding attorney's fees, plus interest and court costs, if those amounts are permitted to be included by law or by the restrictive covenants governing the property; or

(2) \$2,500.

(g) Subsection (f) does not prevent a property owners' association from recovering or collecting attorney's fees in excess of the amounts prescribed by Subsection (f) by other means provided by law.

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES.

A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association; or

(2) attorney's fees incurred by the association solely associated with fines assessed by the association.

Sec. 209.010. NOTICE AFTER FORECLOSURE SALE.

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner not later than the 30th day after the date of the foreclosure sale a written

notice stating the date and time the sale occurred and informing the lot owner of the owner's right to redeem the property under Section 209.011.

(b) The notice must be sent by certified mail, return receipt requested, to the lot owner's last known mailing address, as reflected in the records of the property owners' association.

(c) Not later than the 30th day after the date the association sends the notice required by Subsection (a), the association must record an affidavit in the real property records of the county in which the lot is located, stating the date on which the notice was sent and containing a legal description of the lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit.

(d) The notice requirements of this section also apply to the sale of an owner's lot by a sheriff or constable conducted as provided by a judgment obtained by the property owners' association.

Sec. 209.011. RIGHT OF REDEMPTION AFTER FORECLOSURE.

(a) A property owners' association or other person who purchases occupied property at a sale foreclosing a property owners' association's assessment lien must commence and prosecute a forcible entry and detainer action under Chapter 24 to recover possession of the property.

(b) The owner of property in a residential subdivision may redeem the property from any purchaser at a sale foreclosing a property owners' association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner under Section 209.010.

(c) A person who purchases property at a sale foreclosing a property owners' association's assessment lien may not transfer ownership of the property to a person other than a redeeming lot owner during the redemption period.

(d) To redeem property purchased by the property owners' association at the foreclosure sale, the lot owner must pay to the association:

(1) all amounts due the association at the time of the foreclosure sale;

(2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;

(3) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;

(4) any assessment levied against the property by the association after the date of the foreclosure sale;

(5) any reasonable cost incurred by the association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and

(6) the purchase price paid by the association at the foreclosure sale less any amounts due the association under Subdivision (1) that were satisfied out of foreclosure sale proceeds.

(e) To redeem property purchased at the foreclosure sale by a person other than the property owners' association, the lot owner:

(1) must pay to the association:

(A) all amounts due the association at the time of the foreclosure sale less the foreclosure sales price received by the association from the purchaser;

(B) interest from the date of the foreclosure sale through the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;

(C) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;

(D) any unpaid assessments levied against the property by the association after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a); and

(2) must pay to the person who purchased the property at the foreclosure sale:

(A) any assessments levied against the property by the association after the date of the foreclosure sale and paid by the purchaser;

(B) the purchase price paid by the purchaser at the foreclosure sale;

(C) the amount of the deed recording fee;

(D) the amount paid by the purchaser as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a).

(f) If a lot owner redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the owner a deed transferring the property to the redeeming lot owner. If a purchaser fails to comply with this section, the lot owner may file a cause of action against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner is the prevailing party in the action.

(g) If, before the expiration of the redemption period, the redeeming lot owner fails to record

the deed from the foreclosing purchaser or fails to record an affidavit stating that the lot owner has redeemed the property, the lot owner's right of redemption as against a bona fide purchaser or lender for value expires after the redemption period.

(h) The purchaser of the property at the foreclosure sale or a person to whom the person who purchased the property at the foreclosure sale transferred the property may presume conclusively that the lot owner did not redeem the property unless the lot owner files in the real property records of the county in which the property is located:

(1) a deed from the purchaser of the property at the foreclosure sale; or

(2) an affidavit that:

(A) states that the lot owner has redeemed the property; and

(B) contains a legal description of the property.

(i) If the property owners' association purchases the property at foreclosure, all rent and other income collected by the association from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the association under Subsection (d), and if there are excess proceeds, they shall be refunded to the lot owner. If a person other than the association purchases the property at foreclosure, all rent and other income collected by the purchaser from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the purchaser under Subsection (e), and if there are excess proceeds, those proceeds shall be refunded to the lot owner.

(j) If a person other than the property owners' association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the redeeming lot owner, the purchaser shall obtain an affidavit from the association or its authorized agent stating that all amounts owed the association under Subsection (e) have been paid. The association shall provide the purchaser with the affidavit not later than the 10th day after the date the association receives all amounts owed to the association under Subsection (e). Failure of a purchaser to comply with this subsection does not affect the validity of a redemption by a redeeming lot owner.

(k) Property that is redeemed remains subject to all liens and encumbrances on the property before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien of a property owners' association is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after the redemption.

(l) If a lot owner makes partial payment of amounts due the association at any time before the redemption period expires but fails to pay all amounts necessary to redeem the property before the redemption period expires, the association shall refund any partial payments to the lot owner by mailing payment to the owner's last known address as shown in the association's records not later than the 30th day after the expiration date of the redemption period.

(m) If a lot owner sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, the lot owner's right of redemption is extended until the 10th day after the date the association and any third party foreclosure purchaser provides written notice to the lot owner of the amounts that must be paid to redeem the property.

(n) After the redemption period and any extended redemption period provided by Subsection (m) expires, the association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property is located stating that the lot owner did not redeem the property during the redemption period or any extended redemption period.

(o) The association or the person who purchased the property at the foreclosure sale may file an affidavit in the real property records of the county in which the property is located that states the date the citation was served in a suit under Subsection (a) and contains a legal description of the property. Any person may rely conclusively on the information contained in the affidavit.

(p) The rights of a lot owner under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' association.

SECTION 2. S.B. No. 507, 77th Legislature, Regular Session, 2001, is enacted in honor of Wenonah Blevins and may be unofficially referred to as the Wenonah Blevins Residential Property Owners Protection Act.

SECTION 3. This Act takes effect January 1, 2002.

President of the Senate Speaker of the House

I hereby certify that S.B. No. 507 passed the Senate on April 2, 2001, by a viva-voce vote; May 18, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 21, 2001, House granted request of the Senate; May 27, 2001, Senate adopted Conference Committee Report by the following vote: Yeas 17, Nays 1, one present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 507 passed the House, with amendments, on May 16, 2001, by a non-record vote; May 21, 2001, House granted request of the Senate for appointment of Conference Committee; May 27, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

[Note: The above act was amended by:

Acts 2011, 82nd Legislature (H.B. 1127), effective January 1, 2012

Acts 2015, 84th Legislature (S.B. 1168), effective September 1, 2015]

ANNEX A

PANDEMIC EXPOSURE POLICY

A person, including but not limited to Board Members and/or employees of the Association, is not liable for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency unless the claimant establishes that:

1. The person who exposed the individual:

A. Knowingly failed to warn the individual of or remediate a condition that the person knew was likely to result in the exposure of an individual to the disease, provided that the person:

- i. Had control over the condition;
- ii. Knew that the individual was more likely than not to come into contact with the condition; and
- iii. Had a reasonable opportunity and ability to remediate the condition or warn the individual of the condition before the individual came into contact with the condition; or

B. Knowingly failed to implement or comply with government-promulgated standards, guidance, or protocols intended to lower the likelihood of exposure to the disease that were applicable to the person or the person's business, provided that:

- i. The person had a reasonable opportunity and ability to implement or comply with the standards, guidance, or protocols;
- ii. The person refused to implement or comply with or acted with flagrant disregard of the standards, guidance, or protocols; and
- iii. The government-promulgated standards, guidance, or protocols that the person failed to implement or comply with did not, on the date that the individual was exposed to the disease, conflict with government-promulgated standards, guidance, or protocols that the person implemented or complied with; and

2. Reliable scientific evidence shows that the failure to warn the individual of the condition, remediate the condition, or implement or comply with the

government promulgated standards, guidance, or protocols was the cause in fact of the individual contracting the disease.