

OPEN RECORDS POLICY
FOR AUSTIN'S COLONY HOMEOWNERS ASSOCIATION OF BRYAN, INC.

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BRAZOS §

WHEREAS, the Austin's Colony Homeowners Association of Bryan, Inc. ("Association") is charged with enforcing those certain covenants, conditions and restrictions contained in the recorded Declarations for the various sections of the community (referred to collectively as "Declarations"); and

WHEREAS, chapter 209 of the Texas Property Code was amended effective January 1, 2012, Section 209.005 ("Section 209.005") addresses association records ("Association Records"); and

WHEREAS, the Board of Directors of the Association ("Board") desires to establish a policy for Open Association Records consistent with Section 209.005 and to provide clear and definitive guidance to owners.

NOW, THEREFORE, the Board has duly adopted the following *Open Records Policy*:

It is the policy of the Association to make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the Owner as the Owner's agent, attorney, or certified public accountant (the "Owner's Representative") in accordance with the following provisions:

1. **Request.** An Owner or the Owner's Representative must submit a written request for access or information. The written request must:
 - a. be sent by certified mail to the mailing address of the Association or to the authorized representative of the Association as reflected on the most current Management Certificate of the Association filed of record in accordance with Section 209.004 of the Texas Property Code;
 - b. describe with sufficient detail the books and records of the Association that are requested; and
 - c. state whether the Owner or the Owner's Representative elects to inspect the requested books and records before obtaining copies or have the Association forward copies of the requested books and records.
2. **Election to Inspect.** If an inspection is requested, the Association shall send written notice to the Owner or the Owner's Representative of dates during normal business hours that the Owner or the Owner's Representative may inspect the requested books and

records. Such written notice shall be sent on or before the tenth (10th) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4 below.

3. **Election to Obtain Copies.** If copies of the identified books and records are requested, the Association shall produce copies of the requested books and records on or before the tenth (10th) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4.
4. **Inability to Produce Records Within 10 Days.** If the Association is unable to produce requested books and records on or before the tenth (10th) business day after the date the Association receives the request, the Association shall provide written notice to the Owner or the Owner's Representative that:
 - a. informs the Owner or the Owner's Representative that the Association is unable to produce the requested books and records on or before the tenth (10th) business day after the date the Association received the request; and
 - b. states a date by which the requested books and records will be sent or made available for inspection, which date shall not be later than the fifteenth (15th) business day after the date such notice is given.
5. **Extent of Books and Records.** The Association shall produce books and records requested by an Owner or an Owner's Representative to the extent those books are in the possession, custody or control of the Association.
6. **Time of Inspection; Copies.** If an inspection of books and records is requested or required, the inspection shall take place at a mutually agreed upon time during normal business hours. At the inspection, the Owner or the Owner's Representative shall identify the books and records to be copied and forwarded. The Association shall thereafter make copies of such books and records at the cost of the Owner and forward them to the Owner or the Owner's Representative.
7. **Format.** The Association may produce books and records requested by an Owner or an Owner's Representative in hard copy, electronic or other format reasonably available to the Association.
8. **Costs.** The Association may charge an Owner for the compilation, production or reproduction of books and records requested by the Owner or the Owner's Representative, which costs may include all reasonable costs of material, labor and overhead. Costs will be billed at the rates established by Title 1 of the Texas Administrative Code, Section 70.3 ("Section 70.3") as same may be amended from time-to-time. As of the date of this Policy, the rates set forth below are established by Section 70.3. Should the rates set forth in Section 70.3 ever be different than in this Policy (either

through amendment or error by this Policy) the then current rates set forth in Section 70.3 shall control.

The following rates, in accordance with Title 1 of the Texas Administrative Code, Section 70.3, apply:

Labor for locating, compiling and reproducing records ¹	\$15.00/hr
Copies (8½ x 11 and 8½ x 14)	\$0.10/pg
Oversize paper copies (11 x 17, greenbar and bluebar)	\$0.50/pg
Specialty papers (blue print and maps)	actual cost
Diskette	\$1.00
Magnetic tape or data or tape cartridge	actual cost
CD	\$1.00
DVD	\$3.00
VHS video cassette	\$2.50
Audio cassette	\$1.00
Other	At the rate provided for in Section 70.3

9. **Advance Payment of Estimated Costs.** The Association shall estimate the costs of compiling, producing and reproducing books and records requested by an Owner or an Owner's Representative on the basis of the rates set forth in Section 8 above. The Association may require advance payment of the estimated costs of compiling, producing and reproducing the requested books and records.

10. **Actual Costs.**

- a. If the actual costs of compiling, producing and reproducing requested books and records are less than or greater than the estimated costs, the Association shall submit a final invoice to the Owner on or before the thirtieth (30th) business day after the date the requested books and records are delivered.

¹ No labor will be charged if there are 50 or fewer pages unless the documents are in two or more separate buildings not physically connected to each other or in a remote storage facility.

- b. If the final invoice includes additional amounts due from the Owner, the Owner shall be required to pay the additional amount to the Association before the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- c. If the final invoice indicates that the actual costs are less than the estimated costs, the Association shall refund the excess amount paid by the Owner not later than the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- d. If the Owner fails to pay the Association the additional amounts shown in the final invoice in accordance with Subsection 10.1 above, the Association may add the additional amount to the Owner's assessment account as an assessment.

11. **Books and Records Not Required to be Produced.**

- a. Unless an Owner whose records are the subject of a request provides express written approval to the Association or unless a court order is issued directing either the release of books and records or that books and records be made available for inspection, the Association is not required to release or allow inspection of books and records that:
 - i. Identify the history of violations of dedicatory instruments of an individual Owner;
 - ii. Disclose an Owner's personal financial information, including records of payment or nonpayment or amounts due the Association;
 - iii. Disclose an Owner's contact information, other than the Owner's address; or
 - iv. Disclose information related to an employee of the Association, including personnel files.
- b. The Association is not required to release or allow inspection of ballots cast in an election or removal of Trustees, except as required by a recount procedure in accordance with Section 209.0057 of the Texas Property Code.
- c. In addition, information may be released in an aggregate or summary manner that will not identify an individual property Owner.

12. **Business Day.** As used in this policy, "business day" means a day other than a Saturday, Sunday or federal holiday.

This policy is effective upon recordation in the Public Records of Brazos County, and supersedes any policy regarding open association records which may have previously been in effect. Except as affected by Section 209.005 and/or this Policy, all other provisions contained

in the Declarations or any other dedicatory instruments of the Association shall remain in full force and effect.

I hereby certify that I am the duly elected, qualified and acting President of the Association and that the foregoing Open Records Policy was approved by a majority vote of the Board of Directors as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Brazos County, Texas.

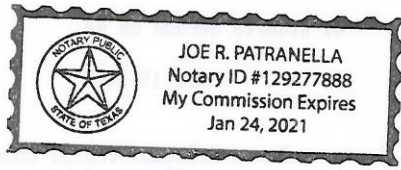
Approved and adopted by the Board on this 16th day of May, 2017.

AUSTIN'S COLONY HOMEOWNERS ASSOCIATION OF BRYAN, INC.

By: Charles Gines
President

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned notary public, on this 16th day of May, 2017 personally appeared Charles Gines, President of Austin's Colony Homeowners Association of Bryan, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose and in the capacity therein expressed.



Joe R. Patranella
Notary Public, State of Texas

in the Declaration or any other dedicatory instruments of the Association shall remain in full force and effect.

I hereby certify that I am the duly elected, qualified and acting President of the Association and that the foregoing Open Records Policy was approved by a majority vote of the Board of Directors as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Brazos County, Texas.

Approved and adopted by the Board on this 19th day of May, 2017.

AUSTIN'S COLONY HOMEOWNERS
ASSOCIATION OF BRYAN, INC.

By: [Signature]
President

Filed for Record in:
BRAZOS COUNTY

On: May 19, 2017 at 03:00P

As a
NO LABEL RECORDING

Document Number: 01297836

Amount: 42.00

Receipt Number - 603029

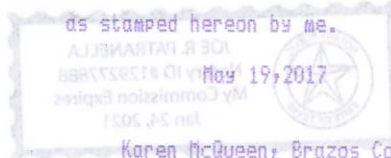
By:
Patsy Montalbano

the undersigned notary public, on this 19th day of May, 2017 personally appeared Charles Erwin, President of Austin's Colony Homeowners Association of Bryan, Inc., known to me to be the person whose name is on the foregoing instrument, and acknowledged to me that he/she executed the same.

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public records of:

[Signature]
Notary Public, State of Texas

BRAZOS COUNTY



Karen McQueen, Brazos County Clerk
BRAZOS COUNTY