

RESOLUTION FOR FLAGPOLES, FLAGS, RELIGIOUS ITEMS, RAINWATER RECOVERY SYSTEMS, POLITICAL SIGNS, ELECTRIC GENERATOR, ENERGY EFFICIENT ROOFING MATERIALS, SOLAR ENERGY DEVICES, AND XERISCAPE

*Whereas*, The Oaks at Stoney Creek Homeowners Association, Inc. (the “Association”), constitutes a property owners association under the provisions of Chapter 209 of the Texas Property Code and is composed of fifteen or more lots.

*Whereas*, Chapter 202 of the Texas Property Code was amended, which requires the Association to adopt guidelines for flag poles, flags, religious items, rainwater recovery systems, political signs, stand by electric generator, energy efficient roofing materials, solar energy device, and xeriscaping.

*Whereas*, the Association, through its Board of Directors, shall have and may exercise discretionary authority concerning the restrictive covenants contained herein.

Now, Therefore, in order to comply with Chapter 202, the Board hereby adopts the following guidelines:

**Flags:**

Above-ground flagpole stands and/or footings and illumination under Section 5.6, Section 202.011 of the Texas Property Code, must be approved by the ACC prior to any installation. Failure to obtain prior approval may result in the Association requiring the flagpoles, flagpole footing, or flags that do not comply with these Guidelines to be removed.

A. Flag of the United States: The flag of the United States must be displayed in accordance with applicable provisions of 4. U.S.C. Sections 5-10.

B. Flag of Texas: The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code.

**Flagpoles:**

1. Not more than one (1) freestanding flagpole or flagpole attached to the residential dwelling or garage (on a permanent or temporary basis) is permitted on a lot. It must be maintained in good condition, a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.
2. A flagpole attached to the residential dwelling or garage shall not exceed six (6) feet in length.
3. A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole and must be installed in accordance with the manufacturer’s guidelines and specifications. Free-standing flagpole shall be permanently installed in the ground according to the manufacturer’s instructions.
4. A flagpole, whether freestanding or attached to the residential dwelling or garage, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the dwelling. Flagpoles shall be commercially produced and not homemade, they shall not be constructed of wood or plastic.
5. The flag display and flagpole shall conform to all setbacks, easement, and zoning ordinances.
6. An Owner is prohibited from locating a flagpole on property owned or maintained by the Association.

**Flags:**

1. Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any time and must be maintained in good condition; a deteriorated flag must be replaced or removed.
2. Permitted Flags are limited in size to 3 feet tall by 5 feet wide.

3. A flag must be displayed on a flagpole. A flag shall not be attached to the wall of the residential dwelling or other structure on a Lot or a fence, or be displayed in a window of the residential dwelling.
4. Illumination of a flag is permitted but the lighting must be in-ground and have a maximum of 150 watts. High intensity lighting such as mercury vapor, high-pressure sodium, or metal halide is not permitted. It must be compatible with exterior lighting within the subdivision and appropriate for a residential neighborhood. Lighting used to illuminate a flag shall be positioned in a manner so that it is not directed toward an adjacent Lot or a street adjacent to the Lot and does not otherwise unreasonably affect an adjacent Lot.
5. An external halyard on a flagpole is required to be securely affixed to the flagpole so that it is not moved by the wind and thereby permitted to clang against the flagpole creating noise.

### **RELIGIOUS ITEMS:**

Religious Items related to any faith that is motivated by an Owner's sincere religious belief or tradition, may be displayed, as required by 202.019 of the Texas Property Code, subject to the following regulations:

1. The religious item cannot threaten public health or safety.
2. The religious item cannot violate any law.
3. The religious item cannot contain language, graphics or other display that is patently offensive to a passerby.
4. The religious item must be located on the entry door or entry door frame and cannot extend past the outer edge of the door frame of the dwelling.
5. The maximum space allotted to a religious item or combination of religious items shall be no more than 25 square inches.
6. The Association may remove any item that does not conform to these regulations.

### **RAINWATER RECOVERY BARRELS OR SYSTEMS**

Rainwater recovery barrels or systems ("Barrels/System") shall be permitted to the extent required by 202.007(d), subject to the following regulations:

1. The Owner shall first apply to and receive written approval from the ACC prior to installation of any Barrels/System.
2. The Barrels/System must be of a color that is consistent with the color scheme of the owner's home.
3. The Barrels/System cannot be located between the front of the owner's home and an adjoining or adjacent street. (the front yard)
4. The Barrels/System must not display any language or other content that is not typically included on the item when it is manufactured.
5. The Association may regulate the size, type, materials and manner of screening for Barrels/System that are visible from the street, another lot, or common area.
6. There must be sufficient area on the owner's property to install the Barrels/System, no Barrels/System shall be located on or extend onto any property other than the owner's lot.
7. Other than gutters and downspouts conventionally attached to a dwelling or appurtenant structure, all components of the Barrels/System, such as tanks, barrels, filters, pumps, motors, pressure tanks, pipes and hoses, must be substantially screened from public view from any street or common area.

8. Screening may be accomplished by an approved solid fence or vegetation; or by burying the tanks/barrels.
9. A rain barrel may be placed in a location visible from public view from any street or common area only if the configuration of the guttering system on the structure precludes screening as described above, so long as:
  - a. the barrel does not exceed 55 gallons, and
  - b. the barrel is installed in close proximity to the structure on a level base with the guttering downspout leading directly to the barrel inlet at a substantially vertical angle, and
  - c. the barrel is fully painted in a single color to blend with the adjacent home or vegetation, and
  - d. any hoses attached to the barrel discharge must be neatly coiled and stored behind or beside the rain barrel in the least visible location when not in use.
10. Overflow lines from a system must not be directed onto or adversely affect adjacent properties or common areas.
11. Inlets, ports, vents and other openings must be sealed or protected with mesh to prevent children, animals and debris from entering the barrels, tanks or other storage devices. Open top storage containers are prohibited, however, where space allow and where appropriate as determined by the Association, ACC approved ponds may be used for water storage.
12. Harvested water must be used and is not allowed to become stagnant or a threat to health.
13. All systems shall be maintained in good repair. Unused systems should be drained and disconnected from the gutters. Any unused Systems in public view must be removed from public view of any street or common area.

### **POLITICAL SIGNS**

The purpose of this policy is to set forth certain requirements with which owners and residents must comply in accordance with Section 202.009 of the Texas Property Code in the display of political signs.

1. A property owner may display on the owner's property (i.e., Lot) one or more signs advertising a political candidate or ballot item for an election only on or after the 90<sup>th</sup> day before the date of the election to which the sign relates until the 10<sup>th</sup> day after that election date.
2. Any such political sign must be ground mounted, and a property owner may display on his and/or her Lot only one sign for each candidate or ballot item.
3. Prohibited political signs include any sign that: (1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (2) is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; (3) includes the painting of architectural surfaces; (4) threatens the public health or safety; (5) is larger than four feet by six feet; (6) violates a law; (7) contains language, graphics, or any display that would be offensive to the ordinary person; or (8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.
4. The Association may remove, or cause to be removed, a sign displayed in violation of the foregoing.

### **STANDBY ELECTRIC GENERATOR (SEG)**

SEG are permitted to the extent required by Section 202.19 of the Texas Property Code, subject to the following regulations, which shall be reasonably applied and enforced:

1. The owner shall first apply to and receive written approval from the ACC prior to installation of any SEG permitted by section 202.019 that will be located outside of the main residential structure on the Property, in the same manner as all other submissions for approval or improvements to property.
2. The SEG must be installed and maintained in compliance with manufacturer's specifications and applicable governmental health safety electrical and building codes.
3. All electrical plumbing, and fuel line connections for the SEG shall be installed only by licensed contractors and all electrical connections must installed in accordance with applicable governmental health, safety, electrical and building codes.
4. All natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections for the SEG shall be installed in accordance with applicable governmental health, safety, electrical and building codes.
5. All liquid petroleum gas fuel line connections shall be installed in accordance with rules and standard promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical and building codes.
6. All non-integral standby electric generator fuel tanks for the SEG shall be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.
7. The SEG, its electrical and fuel lines shall all be maintained in good condition.
8. If a component of an SEF, including electrical or fuel lines, is deteriorated or unsafe then that component shall be repaired, replaced or removed as appropriate.
9. The SEG shall be screened in accordance with plans submitted to and approved by the ACC, if it is: visible from the street faced by the dwelling, located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the property owners' Association or located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the Association.
10. The SEG shall be periodically tested in accordance with the manufacturer recommendations.
11. The SEG shall not be used to generate all of substantially all of the electrical power to the residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence.
12. The SEG shall be located in a location submitted to and approved by the ACC.
13. The SEG shall not be located on property owned or maintained by the property owners Association or owned in common by the Association.
14. The location required by the Association for a SEG may not increase the cost of installing the SEG by more than 10% or increase the cost of installing and connecting the electrical and fuel lines for the SEG by more than 20%.

### **Solar Panels**

The purpose of this policy is to set forth certain requirements with which owners must comply concerning installation and use of solar energy devices .The owner shall first apply to and receive written approval from the ACC prior to installation of any solar panels or other solar items permitted by Sec. 202.010 of the Texas Property Code.

1. Solar Panels shall be located in a fenced in yard or patio, OR on the roof of the house. Solar Panel should not be visible from the street and in a location approved by the ACC (subject to any limitation imposed by 202.010).
2. Solar Panels shall be located entirely on the property of the owner erecting the Solar Panels and shall not be located on any other lot, property or common area.

3. When mounted on a structure, no Solar Panel may be higher or wider than the roofline of the structure it is mounted on.
4. When mounted on a structure, the top edge of all Solar Panels shall be parallel with the roofline and shall conform to the slope of the roofline.
5. If located in a fenced in yard or patio, the Solar Panels shall be lower than the fence line of the yard or patio and/or screened. The Association may regulate the size, type, materials and manner of screening for Solar Panels that are visible from the street, another lot, or common area.
6. Solar Panel frames, brackets, wires and pipes shall be a shade of silver, bronze or black.
7. The Association can withhold approval of a device if the Association determines that placement of the device constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. An owner who submits written approval of the proposed placement of the device from all property owners of adjoining property makes a prima facie case that the proposed placement is suitable.

### **ENERGY EFFICIENT ROOFING MATERIALS**

To the extent required by 202.011 of the Texas Property Code, Owners are entitled to install roof shingles designed primarily to be wind and/or hail resistant; shingles that provide heating and cooling efficiencies greater than those provided by customary composite shingles; and shingles that provide solar generation capabilities (collectively referred to as "Alternative Shingles"), subject to the following regulations:

1. The owner shall first apply to and receive written approval from the ACC prior to installation, alteration or modification of Alternative Shingles.
2. Alternative Shingles shall resemble the shingles commonly used on property in the Association.
3. Alternative Shingles shall be more durable than and of equal or superior quality than the shingles commonly used on property in the Association.
4. Alternative shingles shall match the aesthetics of the property surrounding the owner's property.

### **XERISCAPE**

It is in the best interest of the Association in light of frequent and persistent drought conditions in the area, the Association desires to adopt the following to support community resource conservation.

BE IT RESOLVED that the Association's guidelines for Owners and Members are as follows:

Texas statutes (Texas Property Code Sec. 202.07) render null and void any restriction in the Association Declaration of Covenants, conditions and Restrictions (CCR's) which prohibit using drought resistant landscaping or water conserving natural turf. The Board under the CCRs has adopted this policy in lieu of any express prohibition against drought resistant landscaping or water conserving natural turf or any provision regulating such matters set for in the CCRs which conflict with Texas law. Xeriscaping means using native and adapted plants that grow and sustain themselves with low water requirements, and are heat and drought tolerant. The Association will allow the use of drought resistant landscaping and water conserving natural turf. The advantages of xeriscaping include substantial cost savings regarding water usage, conservation of water resources during periods of drought, prevention of pollution of surface and ground water by environmentally harmful runoff, and reduced yard maintenance requirements.

### **DEFINITIONS AND GENERAL PROVISIONS**

1. Turf. Turf is the upper stratum of soil bound by grass and plant roots resulting in a thick mass.
2. Hardscape. Hardscape refers to a variety of materials which may be used to cover soil in outdoor spaces where plants and turf do not grow.

3. Pervious Cover. Pervious, or permeable cover, is material that can be penetrated by water.
4. Impervious Cover. Impervious cover or surfaces do not allow water to penetrate, water therefore runs off rather than soaks into the ground.
5. Maintenance. Maintenance is regular and appropriate care necessary to keep landscaped areas healthy, neat and attractive in appearance, in compliance with neighborhood regulations. Maintenance includes regular mowing, weeding, watering, mulching, feeding, and aerating as needed, and removal of overgrown plant materials as well as removal of dead plant materials.

### ARCHITECTURAL CONTROL APPROVAL REQUIRED

Approval by the Architectural Control Committee (the "ACC") is required prior to the removal of existing turf, the addition of plant beds or xeriscaping areas, or the installation of new landscaping elements. Homeowners must submit projects for approval by providing a drawing via the HOA website. The ACC is not responsible for errors or omissions in submitted projects, supervising any removals or installations outlined in a submitted project, the compliance of any approved project with governmental codes or ordinances, or state or federal laws, nor any permits that may be required. To obtain ACC approval for changes to landscaping, including xeriscaping, the homeowner shall include the following information: i) dimensions of the current turfed or sodded areas, ii) list of plants to be installed, to include sizes and quantities, iii) drawing of the property with the location of the proposed beds, xeriscaped areas, and defining borders, with scale, iv) locations of placement of proposed hardscape, ground covering, plants, ornamentation, and other new elements, and v) drawing or map showing easements, setbacks, location of existing trees, beds, driveways, sidewalks, and other non-permeable materials.

### XERISCAPE REQUIREMENTS

Unless otherwise approved in advance and in writing by the ACC, the following guidelines and conditions will be used to approve or deny xeriscape plans.

Ground cover. Non-turf areas may contain crushed or decomposed granite, ground hardwood mulch, crushed limestone, flagstone, or other loose stone material for ground cover. Mulches and ground covers must be natural and earth colors. Tumbled glass ground cover is not permitted. Ground cover must be maintained to prevent weed growth, and preferably a physical weed cloth or other suitable barrier is used during installation. Homeowners must ensure that materials do not create runoff into a neighboring lot or the street.

Large areas may not be composed of a single material, such as mulch or rock, unless interspersed with plants. Large areas of a desert or barren appearance are not permitted.

Areas where turf has been removed must be comprised primarily of pervious materials to allow water to seep into the ground. Paver stones may be used to create walkways. Concrete surfaces are limited to driveways and sidewalks only.

Plants. No plants with thorns, spines, or sharp edges may be used within one foot (1 ft) of public sidewalks. No plants higher than twelve inches (12") can be in the strip between the sidewalk and the street, as this creates a visual safety hazard to pedestrians and drivers.

Plants used in xeriscaped areas should be native or drought tolerant plants. Homeowners are further advised to use plants adapted to the pH soil conditions created by the non-turf materials used. For example, do not install acid-loving plants alongside alkaline crushed limestone, ground hardwood mulch should be used instead. Native plants do well with limestone or crushed granite.

Hardscapes. Hardscapes can include large boulders or other natural materials that are used as part of the xeriscape landscaping design. Potted plants may be placed on hardscaped areas to add seasonal color, greenery and foliage. Proposed landscape decorative items, such as birdbaths, statuary, or similar non-vegetative items must be approved in advance. Boulders or large rocks larger than twelve inches (12”) may not be used in the easement strips between the public sidewalks and the street.

Borders. Xeriscaped areas must be surrounded by a border to define the xeriscaped areas from turfed areas. Borders can consist of edging or mortared masonry units. Masonry products include stone, clay brick pavers, or concrete masonry units manufactured as edging shapes. Masonry edging must be approved by the ACC. Masonry edging must be properly installed to avoid displacement and weed encroachment or growth between masonry units. Brick masonry must be approved for color and type; if brick units are used they must be solid units without holes. No common concrete blocks are permitted. Iron edging must be properly staked and set with top edge not more than two inches above grade. Borders must be maintained as part of the landscaping, must be kept in attractive condition and must be edged.

Turf Grasses. Homeowners should consider replacing turf grasses such as St. Augustine which requires more water with turf needing less water. Residents should also consider converting the narrow easement strips between the public sidewalks and the street curb from turf grass to xeriscaped areas, as these areas are difficult to water without street runoff.

Drought resistant turf grasses include Buffalo grass, Zoysia, and Bermuda. No one turf grass is ideal for all situations, carefully consider the amount of sunlight your lawn receives before choosing a new turf grass.

Artificial turf is prohibited absent a variance from the ACC, which may be granted or denied at the sole discretion of the ACC. The ACC shall have no authority to approve artificial turf in any area between the front most building line of a Lot and the street.

Landscape Maintenance. Xeriscaped areas are subject to the same maintenance requirements as other landscaping and must be maintained at all times to ensure an attractive appearance. Plants must be trimmed, beds must be weed free, and borders must be edged. Plants cannot encroach on sidewalks, curbs, or streets. Diseased or dead plant material must be removed and replaced. Leaves and other debris must be removed regularly. Perennials that die must be trimmed to remove dead material. This includes ornamental grasses and other flowering perennials that go dormant in winter.

To the extent these guidelines conflict with any previous guidelines, rules, covenants or restrictions, these guidelines shall control. These guidelines are supplementary and in addition to any and all other covenants, conditions, restrictions, rules and guidelines in effect for the Association.

#### **CERTIFICATION**

“I, the undersigned, being the President of The Oaks at Stoney Creek Homeowners Association, Inc. hereby certify that the foregoing Resolution was adopted by at least a majority of the Association Board of Directors on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_, President  
Debra Roberts

THE STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2018, Debra Roberts, President of The Oaks at Stoney Creek Homeowner Association, Inc., a Texas non-Profit corporation, on behalf of said Corporation.

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NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS