

AMENDED AND RESTATED BY-LAWS OF THE AFTON VILLAGE SWIMMING POOL CLUB, INCORPORATED

ARTICLE I: AMENDED AND RESTATED BY-LAWS

These Amended and Restated By-Laws of the Afton Village Swimming Pool Club, Incorporated (the "Club") supersede the previous By-Laws of the Club, dated March 1994, in their entirety May 9, 2008.

ARTICLE II: NAME

The name of the Club shall be The Afton Village Swimming Pool Club, Incorporated as provided in the Articles of Incorporation.

ARTICLE III: PURPOSE

The purpose for which the Club is formed is to promote the health and general welfare of its Members and in pursuance thereof to construct, own and operate a swimming pool, and other recreational facilities, together with such incidental objects as are appropriate in the conduct of its activities, in the City of Houston, Texas, for the exclusive use of its Members and their families.

ARTICLE IV: GOVERNMENT

The Club shall be managed by a Board of Directors consisting of nine in number. The number of Directors may be increased or decreased from time to time by amendment of these By-Laws, but no decrease shall have the effect of shortening the term of any incumbent Director. The Directors shall be voted upon and elected by a majority vote of the active Members of the Club in attendance at the Annual Meeting of the active Members of the Club. Directors shall serve for a term of one year, but may serve for successive years if elected by the Members at an Annual Meeting.

ARTICLE V: BOARD OF DIRECTORS

Section 1 – Duties of the Board

The Board of Directors shall:

- a) Elect from the Board of Directors a President, Vice President, Secretary and Treasurer, all of whom shall be Members of the Club and all of whom shall serve without compensation.

- b) Transact all business of the Club and make and amend rules for the use of Club property.
- c) Select a management company or general manager for the Club property who may be compensated for their services.
- d) Fix, impose and collect penalties for violations of these By-Laws and the rules of the Club.
- e) Constitute and appoint committees and define the powers and duties of the committees.

Section 2 – Handling of Funds

- a) The Board of Directors shall designate the bank or banks in which the funds of the Club shall be deposited and determine the manner in which checks, drafts, and other instruments for the payment of the funds of the Club shall be executed. However, the Board shall always require that the Treasurer or one other officer sign all such checks, drafts, or other instruments for the payment of money drawn in the name of the Club.
- b) The Board of Directors shall cause the books of the Club to be audited annually by auditors selected by the Directors, who shall neither be Directors nor officers of the Club, and the report of the auditors shall be available to the Members at all times.

Section 3 – Board Meetings

- a) The Board shall meet at least once quarterly and at such other earlier intervals as they deem necessary.
- b) The Board shall hold its first meeting following the Annual Meeting of the Members in each year as promptly as practicable.
- c) The Board may, by resolution, establish from time to time a schedule of its meetings and rules for the conduct thereof but failure to establish a schedule by resolution shall not invalidate any action taken by the Board at a duly called Board meeting.
- d) Special meetings of the Board may be called by the President, and shall be called by the Secretary upon the request of two Directors.
- e) Written notice of the regular quarterly Board meetings, and any other Board meetings, shall be delivered to each Board member at least five (5) days before the meeting.
- f) Five (5) Directors present at any Board meeting shall constitute a quorum.
- g) In lieu of holding a physical meeting, the Board may take action based on information presented to the Board by the President by e-mail or similar electronic means, or by a telephone conference call on which all Directors present can hear the other Directors speak.

Section 4 – Voting by the Board

- a) A majority vote of those Directors present at any meeting or on a telephone conference call of the Board at which a quorum is present, or a majority vote of the Directors for any action proposed by e-mail or similar electronic means, shall be required for any action taken by the Board.

- b) In the event a question before the Board results in a tie vote which cannot be resolved, the questions shall be submitted to the Members of the Club for a decision.

Section 5 – Expenditures Authorized by the Board

The Directors shall have the authority to make such expenditures that are necessary or advisable to carry out the general maintenance and operation of the Club and its property.

Section 6 – Emergency Repairs

The Board shall have the authority to make expenditures for emergency repairs for the operation of the Club and its property.

Section 7 – Approval by the Club Members Required

Nothing in these By-Laws shall be construed to permit the Board to borrow or pledge the credit of the Club or invest in capital improvements exceeding \$10,000 per improvement, without the specific prior approval of a simple majority of the Club Members at a meeting duly called and held.

Section 8 – Replacement of a Board Member

- a) Any Director who shall cease to hold active Membership in the Club automatically shall cease to be a member of the Board. Active Memberships are those which are not in absentee status nor delinquent.
- b) Any Director who does not attend at least three Board meetings during any one year may be replaced as in (c) below.
- c) The Board may fill any vacancy on the Board to serve until the next Annual Meeting of the Club Members.
- d) Any Director may be removed from office by a majority vote of the Club Membership present in person at either an Annual Meeting or a special meeting of the Members duly called and held. A replacement may be selected at the same or a later meeting from nominees presented by any Club member.

Section 9 – Who May Serve on the Board

Any Member in good standing may serve on the Board for one or more one-year terms. Any Member wishing to serve on the Board shall notify the President of the desire to be voted upon at the next Annual Meeting of the Club.

ARTICLE VI: OFFICERS AND THEIR DUTIES

Section 1 – The Officers

The officers of the Club shall consist of a President, a Vice President, a Secretary and a Treasurer. These shall be elected annually by the Board from among the Directors and shall hold office until the end of the first meeting of the Board following the Annual Meeting of the Club Members, or until successors shall have been chosen and qualified.

Section 2 – The President

The President shall preside at the meetings of the Club and of the Board of Directors. The President shall be the chief administrative officer of the Club. The President shall approve the appointment and removal of such officers, agents, servants, or employees of the Club as the President may deem necessary and may fix their duties and compensation. The President shall approve or disapprove all applications for Memberships.

Section 3 – The Vice President

The Vice President, in the absence of the President, shall act in his stead. The Vice President, under direction of the President, shall attend to the operations and maintenance of the physical properties of the Club and shall oversee the work of the General Manager or any management company hired by the Board.

Section 4 – The Secretary

The Secretary shall send out notices of the meetings of the Club, keep the minutes of the meetings of the Members of the Club and the Board, and attend to the correspondence pertaining to the Club.

Section 5 – The Treasurer

The Treasurer shall attend to keeping the accounts of the Club, collecting its revenues, and paying its regular operating and other bills as approved by the Board or other agency authorized by the Board to incur them. The Treasurer shall deposit funds of the Club in such depository as may be authorized by the Board. The Treasurer shall make a financial report at each Board and Annual Meeting and perform such other duties pertaining to this office as may be requested by the Board.

ARTICLE VII: MEMBERS

Section 1 – Who May Join

Membership in the Club shall consist of family units and shall include all regular members of the household and caregivers over the age of 18. The family unit may be a homeowner or renter. Potential Members shall apply to the Board for Membership.

Section 2 – Grandchildren

Grandchildren who are not regular members of the household may use the Club facilities as Members subject to the following conditions:

- a) The grandchildren's names, birthdates, and the address of their parents shall be registered on the Member's application.
- b) The number of grandchildren plus the number of Member children in the Membership shall not exceed eight.
- c) The grandchildren shall be eligible as Members until the age of 18.
- d) The parents of grandchildren shall not live in Afton Village and/or in the opinion of the Board shall not be potential Members of the Club.
- e) The parents of the grandchildren shall be eligible to use the Club's facilities only under guest provisions of these By-Laws.

Section 3 – Houseguests

- a) A special member of the household, not a member of the immediate family, may use the facilities of the Club subject to the rules and regulations of the Club under the following conditions:
 1. The privilege of such use shall be approved by the Board upon written request for a period to be determined by the Board.
 2. The period so approved by the Board shall extend no longer than one season.
- b) A two-to-seven day pass may be granted to a houseguest of a Member by one Director if there was not an opportunity to put the request before a meeting of the Board.

Section 4 – Caregivers

- a) A caregiver such as a maid or babysitter may use the recreational facilities of the Club subject to the rules and regulations of the Club.
- b) The caregiver must be 16 years or older.
- c) The name of the caregiver shall be registered with the Club.

Section 5 – Withdrawing Membership

A Membership in the Club may not be withdrawn at any time unless the Board shall approve such withdrawal.

Section 6 – Suspension of Pool Privileges

Any member may, for just cause and after having been given an opportunity for a hearing before the Board, be suspended for a period of not more than three months by a two-thirds (2/3rd) vote of the Board present at any meeting thereof; or be expelled by a three-fourths (3/4th) vote of the entire Board. Cause for suspension or expulsion shall, in general, consist of a violation of these By-Laws or the rules and regulations of the Club, or inappropriate behavior.

Section 7 – Conditions for Use of Facilities

- a) All Members of the Club shall be accorded the facilities of the Club subject to the Club rules and regulations which shall be posted at all times at the pool.
- b) In addition to any rules contained in these By-Laws, the Board shall by rule fix the terms and conditions upon which guests or Members may use the facilities of the Club.
- c) The Board, at its discretion, may invite any person to be a member of the Club.
- d) Any property of the Club broken or damaged by a Member or his guest shall be promptly paid for by such Member, with reasonable wear and tear excluded. No person shall take any article belonging to the Club.
- e) The Club assumes no responsibility, and Members or their guests shall have no claim against the Club, for the property of Members or their guests which may be brought into or left in the Club buildings or on the grounds.
- f) Consumption of alcoholic beverages by persons of legal drinking age will be permitted on Club premises provided that the consumption is discrete and in moderation. Anyone refusing to abide by this rule shall be asked to leave the

Club premises for the remainder of the day and may have their Membership revoked for repeated violations.

- g) The Club shall not be controlled by or under the common control with any other organization.
- h) The Club assumes no responsibility, and Members and their guests can have no claim against the Club for any accident or injury to any person or property.
- i) The Board shall have the authority to take such other action and make such other rules and regulation in order to manage the use and operation of the pool

Section 8 – Number of Memberships

The number of Memberships of the Club shall be limited to 300. The Board may establish a lesser number of Memberships at their discretion. If there are Membership applications that cause the potential list of Members to exceed 300 Members, former Members that are current on their dues and Afton Village residents have priority over other applicants for Membership.

ARTICLE VIII: MEMBERSHIP DUES AND FEES

Section 1 – Setting Dues

- a) The Board shall establish dues for Memberships for the ensuing year.
- b) The Board shall use its best judgment to set dues to provide for the necessary running expenses of the Club and the proper maintenance and improvement of its property.
- c) The budget and annual dues shall be proposed by the Board so as to cover all normal pool operating expenses and to set up a reserve fund for future capital expenditures.
- d) A one-time fee established each year by the Board shall be charged to all first-time Members to cover administrative costs.
- e) No dues or part thereof shall be refunded in the event that pool operations are suspended for any period.

Section 2 – Maintaining Membership

- a) Dues are due and payable for each year on May 1st or as the Board otherwise sees fit.
- b) No member of the Club may use the Club facilities until his annual dues are paid in full, and any family failing to pay the annual dues shall forfeit their right to use Club facilities, and shall be considered a delinquent Membership.

Section 3 – Absentee Status

Any member, for any reason he chooses, may notify the Board in writing before May 1st that his Membership will be in absentee status. Absentee status shall mean:

- a) The term shall be for one year beginning May 1, except that at any time he may pay the full balance of dues and resume swimming privileges.
- b) A member on absentee status forgoes the right to swim, bring guests, or swim as the guest of another member.
- c) A member must pay a \$25 service fee at the time of the notice of absentee status.

Section 4 – Delinquent Membership

- a) Any Membership, other than one on absentee status, whose dues have not been received prior to June 1 shall considered delinquent.
- b) All rights and privileges in the Club are withheld from delinquent Memberships including the right to vote at meetings of the Club Members.
- c) A delinquent Membership may become a Member in good standing by paying both current dues and all prior years' dues so long as the Membership has not been cancelled by action of the Board.
- d) A delinquent Membership shall automatically be cancelled whenever the total delinquent dues is equal to the amount originally paid for the Membership. No refund shall be made at cancellation.

Section 5 – Refundable Memberships

- a) From the inception of the Club until July 1, 1976, the By-Laws of the Club provided for the purchase of Refundable Memberships as follows:
 - 1. Up to 100 Memberships, a fee of \$175 each.
 - 2. From 101 to 135 Memberships, a fee of \$225 each.
 - 3. After 135 Memberships, a fee of \$250 each.
- b) After July 1, 1976, no Refundable Memberships were offered.
- c) When a holder of Refundable Membership sells his house or, if renting, moves, this Membership may be turned over to the Club and shall be redeemed by the Club in accordance with the following Section 5e. If a Refundable Membership is terminated by expulsion, this Membership shall be redeemed as though such member had sold his house. If a Refundable Membership holder who is selling his house wishes to sell or transfer his Refundable Membership, the terms of sale and the receiver must be approved by the Board.
- d) In the event of the dissolution of the Club in accordance with the Articles of Incorporation, in any manner for any cause, and in no other event upon the effective date of dissolution of the Club, Refundable Membership holdings shall be a lien upon the proceeds of the sale of the property of the Club after the payment of all just debts and obligations to the extent of the then value of each Refundable Memberships as purchased less all debts, dues and obligations owed by the holder to the Club. After payment to all Refundable and Non-refundable Members, outstanding upon the effective date of dissolution of the Club, the surplus remaining shall be given to charities selected by a majority of those Members present at a duly called meeting of the Members.
- e) Upon cessation of a Refundable Membership for any cause, all indebtedness owing to the Club by the Member shall be a lien upon and charged against his Refundable Membership fee and the balance returned less \$10 handling charge. In case of the enforcement of a lien as above herein provided, the signature of the holder of such a Membership shall not be requisite to perfect the transfer to the Club, and the Treasurer of the Club is hereby authorized as the attorney of the holder of such Membership to make such transfer.
- f) This Section 5 of Article VIII of the By-Laws may be amended only by a two-thirds (2/3rd) vote of the Refundable Membership holders, except those who are delinquent, present in person or represented by written proxy, at any meeting of

the Club provided at least five (5) days' written notice of such amendment has been sent to each Refundable Member.

Section 6 – Non-Refundable Memberships

- a) From April 19, 1971, through July 1, 1976, the By-Laws of the Club provided for the purchase of Non-refundable Memberships for \$100 each. These Non-refundable Memberships were nonvoting. Effective July 1, 1976, these Non-refundable Memberships shall have all voting rights as provided in these By-Laws.
- b) Effective July 1, 1976, only Non-refundable Memberships shall be offered for purchase, subject to Article VII, and the fee shall be set by the Board each year. This fee shall not be refundable, except as provided in Article VIII, Section 5d – Dissolution of the Club. The full fee must be paid or contracted before facilities of the Club may be used.

Section 7 – Liabilities

Each Member shall be responsible for the payment of all charges or liabilities that may be imposed upon or incurred by himself/herself and his/her family to whom the privileges of the Club shall have been extended, and for all charges and liabilities imposed upon or incurred by guests introduced by said Member.

Section 8 – Taxes

All fees and other charges mentioned herein and hereafter are exclusive of taxes, if any, imposed by the Federal, state or other governmental bodies.

ARTICLE IX: MEMBERSHIP MEETINGS

Section 1 – The Annual Meeting

- a) The Annual Meeting of the Club shall be held during the month of May, or whenever the Board deems advisable in each year, at such place and time as the Board may determine and according to Robert's Rules of Order.
- b) The Annual Meeting shall be for the purpose of electing Directors and for the transaction of such other business as may be indicated in the notice or may be brought before it.

Section 2 – Special Meetings

Special Meetings of the Club may be called by the Board. Also, upon written request of 10 Members to the Secretary, stating the purpose thereof, a Special Meeting shall be called by the Secretary within 30 days.

Section 3 – Notice of Meetings

- a) Written notice of the Annual Meeting shall be given by letter, fax, or by e-mail to the Members at least five (5) days prior thereto. The notice of the Annual Meeting shall include the names of the candidates for the Board.

- b) Special Meetings of the Club may be held on five (5) days' written notice by letter, fax, or e-mail to all Members. The notice shall state the purpose for which the Special Meeting is called, and no other business shall be transacted.
- c) Whenever in these By-Laws written notice to Members is required, the delivery of such notice by letter via the US Postal Service, by fax to the last known fax number, or by e-mail to the last known e-mail address of the Members shall constitute notice.

Section 4 – Voting

Each Membership, except Delinquent Memberships, shall be entitled to one vote at meetings of the Club. Any Membership may be represented by proxy if no able to attend in person. Voting may be by way of voice but ten (10) Memberships, including those represented by proxy, shall have the right to demand voting by roll call or closed ballot. Except as otherwise expressly provided in these By-Laws, the affirmative vote of a simple majority of the Memberships present (or represented by written proxy) at any Club meeting shall constitute the action of the Club.

Section 5 – Quorum

Fifteen percent (15%) of the voting Memberships, present in person or by written proxy, shall constitute a quorum at all Club meetings.

ARTICLE X: COMMITTEES

The Board may, from time to time, establish such committees as it determines to be advisable with such rights and obligations as the Board may determine. Any Member in good standing may be appointed to any such committee. The Chair of any committee shall be appointed by the President with the approval of the Board.

ARTICLE XI: MISCELLANEOUS

Section 1 – Indemnification

- a) Each director, officer, employee or agent of the Club may be indemnified by the Club for expenses, including attorney's fees and court costs, by him in connection with the defense of any action, suit, or proceeding in which he is made a party by reason of his being or having been a director, officer, employee or agent of the Club
- b) The Board may indemnify such person who was, is or is threatened to be a defendant or respondent in a proceeding because the person is or was an officer, director, employee or agent only if it is determined in accordance with subsection 1d) below that the person conducted himself in good faith and reasonably believed that (i) in the case of his conduct in his official capacity, it was in the Club's best interest, (ii) in all other cases, that his conduct was at least not opposed to the Club's best interest, and (iii) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful.
- c) A determination of indemnification under subsection 1b) above must be made:

1. By a majority vote of a quorum of the Board 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, 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 or a committee of the Board by vote as set forth in subsection 1c)1 or 1c)2 of this section, or, if such 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 proceedings.
- d) The right of indemnification provided herein shall inure to each person referred to in 1a) whether or not he is such director, officer, employee or agent at the time such costs or expenses are imposed or incurred and, in the event of his death, shall extend to his legal representatives and estate.
- e) The Board may pay or reimburse expenses incurred by an officer, director, employee or agent 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.
- f) Any indemnification or advance of expenses shall be reported in writing to Members on or before the notice of the next meeting of the Members.

Section 2 – Insurance

The Club may purchase and maintain insurance on behalf of itself and any person who is or was a director, officer, employee or agent of the Club against any and all liability against him and incurred by him in such capacity or arising out of his status as such a person, whether or not the Club would have the power to indemnify him against that liability.

Section 3 – Any Question as to the Meaning

Any question as to the meaning for proper interpretation of any of the provisions of these By-Laws shall be determined by the Board.

Section 4 – Acceptance of the By-Laws

Acceptance of these By-Laws will be made by prospective Members when the first payment is made for a Membership. Any suggestions for change may be given to the Board for consideration, or may be brought up at a duly called meeting of the Club.

Section 5 – Amendments to the By-Laws

These By-Laws, except Article VIII, Section 5 (Refundable Memberships), may be amended by a two-thirds (2/3rd) vote of the voting Members present in person or represented by written proxy, at any meeting of the Club provided at least five (5) days' prior written notice of such amendment has been sent to each Member.

Section 6 – All Rules and By-Laws

All rules and By-Laws pertaining to the operation of the Club will conform to all safety, health and other requirements of the city, state or Federal governments.

Section 7 – Limit of Liability of a Member

In the event of any legal action or judgment against the Club, each Member and his family shall be liable only to the extent of his Membership fee.
