



SHHA Collected Rules

2004



Sequoyah Hills

Homeowners Association

Through 8 March 2005

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SECOND AMENDED DECLARATION OF PROTECTIVE RESTRICTIONS

**DECLARATION MADE THIS 4TH DAY OF APRIL, 2000, BY
SEQUOYAH HILLS HOMEOWNERS' ASSOCIATION, INC.**

WITNESSETH:

WHEREAS, the SEQUOYAH HILLS HOMEOWNERS' ASSOCIATION, INC. and the individual homeowners comprising said ASSOCIATION having all right, title and interest, legal, equitable, and otherwise, in and to all the Property hereinafter defined, and none of the right, title, or interest, legal, equitable, or otherwise in or to any of the Property is vested in any person, corporation, partnership, association, or otherwise except the parties to this Declaration; and

WHEREAS, all the parties to this Declaration desire to establish a general plan, set forth in this Declaration, for the improvement and development of their property and to protect and maintain the quality of life and the economic value of their property and to subject their property to the following limitations, conditions, restrictions, covenants, servitudes and reservations upon and subject to which all of the Property shall be held, improved and conveyed:

NOW THEREFORE, all the parties to this Declaration hereby declare that the Property subject to this Declaration is and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved upon and subject to the limitations, conditions, restrictions, covenants, servitudes and reservations thereafter set forth, all of which are declared and agreed to be in furtherance of and pursuant to a general plan for the development and maintenance of the Property and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property, and all of which are for the benefit of the owner of each part or portion of the Property, and each and all of which shall inure to and pass with each and every parcel of said property and any part or portion thereof and shall apply to and bind the respective successor in interest of the Property and any part or portion thereof, as follows:

ARTICLE ONE: Property Subject to Declaration

The real property subject to this Declaration (the "Property") is situated in the City of Oakland, County of Alameda, State of California, and is more particularly described as follows:

Lots 1 to 235, inclusive, in Tract 2429, as recorded in Map Book 48, Pages 50 to 54, in the office of the County Recorder of said County, and Lots 1 to 29, inclusive, in Tract 2606, as recorded in Map Book 48, Page 100, in the office of the County Recorder of said County, EXCEPTING therefrom, the following parcels:

(A) All property subject to an easement or other interest dedicated and accepted by the local public authority and devoted to public use.

(B) All properties exempt from taxation by the laws of the State of California. This Declaration shall not be interpreted to establish a "Common Interest Development," as that term is defined in California Civil Code Section 1351(c), and the Property shall not be subject to the Davis-Stirling Common Interest Development Act.

ARTICLE TWO: Definition

Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefor:

1. Declaration: This Declaration as the same may in any way be amended, changed, or modified from time to time.
2. Association: Sequoyah Hills Homeowners' Association, Inc., a non-profit incorporated association of Owners.
3. Building Site: Such portion of a lot in said Tract 2429 or 2606 which is included in the above legal description of the Property, or which is designated as a lot on any lot split or map of resubdivision of the property filed or recorded by Declarant.
4. Lot or Parcel: A distinct and separate portion of the property.
5. Single Family Dwelling: A private residence for one family only containing but one kitchen; provided that accessory buildings and structures may be built and maintained in connection with a single family dwelling as provided for herein.
6. Accessory Buildings or Structures: A building or structure, accessory to a single family dwelling shall be upon the same Building Site, Lot or Parcel as the main residence and shall consist only of a garage for not more than three cars, or patio or patios, a swimming pool with or without dressing

rooms, and/or only such other buildings or structures as may be expressly permitted under the hereinafter set forth provisions of this Declaration.

7. Owner: Each person or entity holding a record ownership in a Lot, as shown by the records of the County Recorder of the County of Alameda. In the case of a sale under a contract of sale, the purchaser and not the seller thereunder shall be deemed to be the Owner while such contract is in effect, if and only if such contract has been recorded. Owner shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

8. Recorded, Recording, and of Record: Recorded, recording or of record in the office of the County Recorder of Alameda County, California.

9. Approval and Consents: Approval, consent, authorization or permission shall mean an approval, consent, authorization, or permission expressly and in writing.

10. Person: An individual person, a partnership, an association and/or a corporation, as the context requires.

11. Singular and Plural; Masculine and Feminine: Singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter when the context so requires.

12. Alteration: The construction, performance, installation, completion, modification, alteration (including the attachment of any fixture or the change of any color), destruction or demolition of any Improvement or addition thereto. Alterations shall include improvements. Alterations shall not include the repainting or refinishing of any Improvement in the same color and shade or the repair of any Improvement with the same design and materials as existed before such repainting, refinishing or repair. No Alteration shall be commenced unless and until such Alteration complies with Article Three, Section 2 and plans have been submitted and approved pursuant to Article Three, Section 3.

13. Architectural Standards: Architectural rules, regulations, and guidelines adopted by the Committee from time to time and in its sole discretion.

14. Articles: The Association's articles of incorporation and any amendments.

15. Board of Directors or Board: The Board of Directors of the Association.

16. Environmental Committee or Committee: The committee of persons appointed and acting pursuant to Article 6 of the Bylaws and Article Three, Section 3 of this Declaration.

17. Improvement: Everything constructed, installed or planted on the Property, including without limitation, antennae (including but not limited to any exterior structure for use for television, radio or other communication purposes), buildings, streets, fences, walls, paving, pipes, wires, conduits, grading, septic systems, lighting, landscaping and other works of improvement as defined in Section 3 106 of the California Civil Code, excluding only those Improvements or portions thereof which are dedicated to the public and accepted for maintenance by the public.

18. Project Documents: The Articles, Bylaws, this Declaration and the Rules.

19. Residence: A dwelling unit situated on a Lot, in accordance with the provisions of this Declaration, including any garage attached thereto.

20. Rules: shall mean all rules, regulations, restrictions, policies, guidelines, standards, protocol and procedures adopted by the Association, the Board or the Environmental Committee pursuant to the Project Documents, including the Architectural Standards. The Rules may be proposed, adopted, amended and repealed at any meeting of the Board, except that the Architectural Standards may also be proposed, adopted, amended and repealed at any meeting of the Environmental Committee. The Rules may concern any subject matter within the jurisdiction of the Association including, but not limited to, provisions establishing architectural controls. After adoption, a copy of the Rules shall be furnished to each Owner.

ARTICLE THREE: Use and Building Requirements

1. Use of Property:

(a) Single Family Dwellings: No building or structure shall be constructed, erected, altered or maintained on any part of the Property which shall be used, designed, or intended to be used for any purpose other than for a detached single family dwelling, not to exceed two stories in height and accessory buildings and structures expressly permitted under this Declaration. Except with the written consent of the Association, no property may be used for commercial or other non-residential purposes that involve the regular visit to the property by customers, patrons or clients.

(b) Animals, Pets, etc.: The raising, keeping and/or selling of animals, poultry, birds and/or reptiles, either in singular or plural number, upon any portion of the Property is prohibited excepting that dogs, cats and other usual household pets may be kept for pleasure, provided that they are not unreasonable in quantities, and that they do not become a nuisance to other Owners and/or occupants of any part of the Property.

(c) Rubbish, Debris and Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property, and no odors shall be permitted thereon, or to arise therefrom so as to render such portion unsanitary, unsightly, offensive, a public or private nuisance, or detrimental to the Property in the vicinity thereof or to its occupants thereof, to nuisance, public or private, whether or not related to rubbish or debris, shall be permitted to exist or operate upon any portion of the Property

(d) Temporary Quarters: Except with the written consent of the Association, no recreation vehicle, trailer, tent, shack or other temporary living quarters shall at any time be placed or maintained on any portion of the Property; nor shall trucks, recreational vehicles, boats or trailer shall be frequently, continuously or permanently parked in any driveway or any portion of the Property.

(e) Mining and Drilling: No derrick or other structure designed for use or used in boring or drilling for oil, water or natural gas or any other substance shall be erected, placed or permitted upon, above, or under the surface of any part of the Property nor shall any oil, water, or natural gas, petroleum, asphaltum, or other hydrocarbon product or any other substance be produced or extracted by any well or wells or any other structures located upon or over the surface of the Property. No mining or quarry operation shall be conducted on or under any portion of the Property.

(f) Effect of Noncompliance: In the event the Board determines, on its own motion or otherwise, that an Owner, a Lot and/or a Residence is not in full compliance with the above provisions of Section 1, the Board shall notify the Owner in writing of the noncompliance. The notice provided by the Board shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance. If the Board has provided the Owner such notice of noncompliance, and if the Owner fails to remedy such noncompliance in accordance with the provisions of the notice of noncompliance, then the Association shall proceed with enforcement pursuant to Article Five.

2. Construction, Maintenance And Repair Of Improvements:

(a) Single Family Residences: Not more than one (1) Residence shall be constructed upon any Lot, together with such garages, guest houses or other auxiliary structures which meet all requirements of applicable laws of the City of Oakland and which are approved by the Environmental Committee. No mobile home, "move-on" or other mobile living unit, and no used structure shall be placed, installed or maintained upon any Lot.

(b) Minimum Floor Area: Any one-story Residence constructed upon a Lot shall contain a minimum of 1400 square feet of fully enclosed floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, decks, garages and other outbuildings). Any two-story Residence constructed upon a Lot shall contain a minimum of 1000 square feet of fully enclosed floor area devoted to living purposes on the ground floor (exclusive of roofed or unroofed porches, terraces, decks, garages and other outbuildings).

(c) Height Restrictions:

(1) General: No Residence shall be more than two stories in height. No Residence, building or other structure shall be constructed, maintained or altered upon any Lot and no tree, hedge, shrub or landscaping shall be grown upon any Lot, that by reason of height, location on a Lot, and/or quantity or size, unreasonably restricts the view from any other dwellings or Lots in the Property. The determination of whether a view would be unreasonably restricted shall be in the absolute discretion of the Environmental Committee.

(2) Modification: No Residence which was originally built as a one-story Residence shall be modified to include a second story if such additional story would restrict the view from any other dwellings or Lots in the Property. The determination of whether a view would be restricted shall be in the absolute discretion of the Environmental Committee.

(d) Setback Lines: No Residence, building, structure, or altered grade or excavation shall be located upon any Lot closer to the front, rear and side lines of the Lot than is permitted by the minimum setback requirements established by the City of Oakland, the Environmental Committee and the Rules.

(e) Sight Distance: No Improvement which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways in and adjacent to the Property shall be permitted to remain on any corner Lot within the

triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. Notwithstanding the above, trees shall be permitted to remain within such distances if the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(f) Fencing: Plans and specifications for all fencing and walls must be approved by the Environmental Committee prior to construction pursuant to Article Three, Section 3. No barbed wire, chain link fencing or other fencing of a similar nature shall be permitted within the Project. The Environmental Committee shall have the power to prescribe uniform standards for all fencing for Lots within the Project, including the type of materials to be used, height limitations and restrictions on the placement or location of such fencing. Fences and walls shall be considered structures for the purposes of this Declaration.

(g) Billboards and Signs: No billboard or sign of any character shall be erected, maintained or displayed upon or about any part of the Property without the approval of the Board, and any billboard or sign not so approved may be summarily removed and destroyed by the Association, provided that the provisions of this Section 2(g) shall not apply to one neatly mounted sign per Lot, reasonable in size, for the purposes of advertising the Lot for sale or rent.

(h) Antennas and Satellite Dishes: No outside television antenna, microwave or satellite dish, aerial or other such device (collectively "Video Antennas") with a diameter or diagonal measurement in excess of one (1) meter shall be erected, constructed or placed on any Lot. Video Antennas with a diameter or diagonal measurement of one (1) meter or less may be installed only if they conform to the Architectural Standards and, if then required by the Architectural Standards, any necessary approval is obtained in accordance with Article Three, Section 3. Reasonable restrictions which do not significantly increase the cost of the Video Antenna system or significantly decrease its efficiency or performance may be imposed.

(i) Maintenance of Lot During Construction: During the process of construction of any Residence or other Improvement upon a Lot, the Owner and the Owner's contractors, subcontractors, agents and employees shall keep and maintain the Lot free from accumulation of waste materials, rubbish and other debris resulting from such construction. After the completion of construction of any Improvement upon a Lot, the Owner shall cause to

be immediately removed therefrom all waste materials, rubbish and debris, as well as all tools, appliances, equipment, machinery, temporary structures, signs and surplus materials, and shall leave the Lot in a neat and clean condition.

(j) Maintenance of Lots and Residences: All Owners shall maintain and care for their Lots, their Residences and all other Improvements located on their Lot in a first class condition and in a manner consistent with the standards established by the Project Documents.

(k) Alterations to Lots and Residences: Owners may alter or remodel the interiors of their Residences, if the alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding alterations and remodeling. Any proposals for Alterations, additions or other Improvements on Lots or to the exterior or Residences shall be made in accordance with the provisions of Article 3, Section 3.

(l) Fire Prevention:

(1) Construction: All Owners, Lots and Residences shall comply with all fire prevention and abatement regulations, rules, policies, guidelines and requirements of the City of Oakland and the Association, including, without limitation, any setback or fuel modification zone requirements.

(2) Abatement: In addition to the requirements set forth above, and in order to further facilitate the prevention of fire within the Project, each Owner shall, at his own expense, disc scrape and otherwise suppress the existence of dry weeds and grasses around the perimeter of his Lot and around his Residence and all other Improvements located thereon. Notwithstanding the preceding sentence, an Owner shall not have such obligation to the extent such fire prevention services are provided by the City of Oakland or any other governmental or quasi-governmental agency, entity or district. The Association may adopt additional rules, regulations, guidelines and/or policies concerning fire prevention or abatement, which shall constitute Rules.

(m) Effect of Noncompliance: In the event the Board determines, on its own motion or otherwise, that an Owner, a Lot and/or a Residence is not in full compliance with the above provisions of Section 2, the Board shall notify the Owner in writing of the noncompliance. The notice provided by the Board shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance. If the Board has provided the Owner such notice of noncompliance, and if the Owner fails to remedy

such noncompliance in accordance with the provisions of the notice of noncompliance, then the Association shall proceed with enforcement pursuant to Article Five.

3. Architectural Control:

(a) Environmental Committee Members: The Environmental Committee shall consist of a chairman and three (3) or four (4) additional members. Persons appointed to the Committee shall be Owners. All members shall serve until the expiration of the term for which they were appointed, if specified by the Board, or until they resign or are replaced. The Board may appoint a replacement for any member of the Committee who resigns or otherwise fails to act. In the event the Committee does not contain at least four (4) members including the chairman, the Board shall act as the Committee and exercise all powers given the Committee pursuant to this Declaration, until such time as the Committee again contains at least four (4) members including the chairman.

(b) Environmental Committee Powers and Duties: The Committee shall consider and act upon proposals and/or plans submitted pursuant to this Article. The Committee shall meet from time to time, as may be necessary to perform its duties hereunder. The Committee, from time to time and in its sole discretion, may adopt Architectural Standards. The Architectural Standards shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for architectural review and guidelines for architectural design, placement of buildings, landscaping and similar features which may be used in the Project; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration. Any Architectural Standards established by the Committee to govern the use of solar energy systems shall be prepared in compliance with Section 714 of the California Civil Code. The Architectural Standards shall constitute Rules.

(c) Application for Approval: Any Owner who wants to perform any Alteration for which approval is required shall notify the Committee in writing of the nature of the proposed work and shall furnish such information as may be required by the Architectural Standards or reasonably requested by the Committee. The Committee may require an application to include site plans, diagrams, photographs, sample materials or other presentation material as may be necessary for complete review and consideration of the proposed work. All applications shall be submitted in writing in dupli-

cate and each shall be signed by the Owner of the Lot or his authorized agent. Any such plans and specifications shall be prepared by a licensed architect or some other person approved by the Association.

(d) Basis for Approval: The Committee may approve the proposal only if the Committee finds that:

(i) Conformity to Architectural Standards: The plans and specifications conform to this Declaration and to the Architectural Standards in effect at the time the complete proposal was submitted;

(ii) Best Interests of Owners: The approval of the plan will be in the best interests of the Owners;

(iii) Architectural Review: General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and similar elements have been incorporated in order to ensure the compatibility of the proposed improvement with its design concept and the character of adjacent buildings;

(iv) Site Review: General site considerations including site layout, open space and topography, existing trees and rock outcroppings, orientation and locations of building, vehicular access, circulation and parking, setbacks, height, walls, fences and similar elements have been designed to provide a desirable environment; and

(v) Landscape Review: General landscape consideration, including the location, type, size, color, texture and coverage of plant materials (including compliance with any street-tree program), provisions for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement buildings and structures and to provide an attractive environment for the enjoyment of the Owners in general and the enhancement of property values of Lots in the Property.

If the Environmental Committee makes a negative finding on one or more of the items set forth in this subsection, it shall disapprove such matter, or condition its approval so as to allow such findings to be made.

(e) Variance: Subject to the provisions of Article Three, Section 3(t), the Committee may approve variances from compliance with the Architectural Standards, including, but not limited, to variances with respect to setbacks and the timing of submission of landscape plans, when circum-

stances such as topography, natural obstructions, hardship, aesthetic or environmental considerations so require.

(f) Forms of Approvals and Denials: All approvals and denials shall be in writing. Any denial of a proposal or approval of a variance must state the reasons for the decision to be valid. Any proposal which has not been denied in writing within forty-five (45) days from the date of submission of a complete proposal shall be deemed approved; provided, however, that there must be written approval of any variance.

(g) Proceeding With Work: Upon approval of the Committee, the Owner shall diligently proceed with the commencement and completion of all work so approved. Work must be commenced within six (6) months from the date of the approval and completed within the time periods set forth in Article Three, Section 3(h). If the Owner fails to comply with the provisions of this Section, the approval given shall be deemed revoked unless the Committee extends the time for commencement upon request by the Owner. Any such request for an extension shall be in writing. No such extension shall be granted unless the Committee determines that there has been no change in the circumstances under which the original approval was granted.

(h) Completion of Work:

(1) Generally: Completion of the work approved must occur within one (1) year following the commencement of the work.

(2) Extension: The Committee may, on its own motion, or at the request of an Owner, extend the time for completion of the work approved if the Committee determines that completion is impossible or would result in great hardship to the Owner due to strikes, fires, national or local emergencies, weather conditions, natural calamities or other supervening forces beyond the reasonable control of the Owner or his agents.

(i) Failure to Complete: If an Owner fails to complete the work approved within the time periods set forth above, the Committee may notify the Owner in writing of his noncompliance and shall proceed in accordance with the provisions of Article Three, Section 3(k) below.

(j) Determination of Compliance: Any work performed, whether or not the Owner obtained proper approvals, shall be inspected and a determination of compliance shall be made as follows:

(1) Notice of Completion: Upon the completion of any work performed by an Owner for which approval was required, the Owner shall give written notice of completion to the Committee. If the Owner fails to give the notice of completion of work performed for which approval was required, or if the Committee discovers that work for which approval was required under this Declaration has been performed without such approval, the Committee may proceed upon its own motion.

(2) Determination: Within sixty (60) days after receiving the Owner's notice of completion, or on its own motion at any time if such notice of completion is not provided, the Committee shall determine whether the work was performed in substantial compliance with the approval granted, if any. In making its determination, the Committee or its designee may inspect the work. If the Committee finds that the work was not performed in substantial compliance with the approval granted or if the Committee finds that the approval required was not obtained, the Committee shall notify the Owner in writing of the noncompliance. The notice provided by the Committee shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance.

(k) Failure to Remedy the Noncompliance: If the Committee has provided the Owner such notice of noncompliance, and if the Owner fails to remedy such noncompliance in accordance with the provisions of the notice of noncompliance within thirty (30) days from the date of providing such notice of noncompliance, the Committee shall notify the Board of such noncompliance and the Association shall proceed with enforcement pursuant to Article Five.

(1) Waiver: Approval of any plans, drawings or specifications for any work proposed, or for any other matter requiring approval shall not be deemed to constitute a waiver of any right to deny approval of any similar plan, drawing specification or matter subsequently submitted for approval.

(m) Appeal of Decision of Committee: If any Owner who alters his Lot or Residence disputes the jurisdiction or powers of the Committee or any requirement, rule, regulation or decision of the Committee (collectively referred to as "decision"), the Owner may appeal such decision to the Board. The Board shall notify such Owner of the time, date and place of a hearing to review the decision of the Committee. The notice shall be given at least fifteen (15) days prior to the date set for the hearing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited

in the United States mail, first-class, postage prepaid, addressed to the Owner at the address given by the Owner to the Board for the purpose of service of notices or to the address of the Owner's Lot if no other address has been provided. After the hearing has taken place, the Board shall notify the Owner of its decision. The decision shall become effective not less than five (5) days after the date of the hearing. The determination of the Board shall be final.

(n) **Liability:** If members of the Environmental Committee and the Board have acted in good faith, neither the Committee nor the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings or specifications; (c) any action taken to enforce this Article 3 pursuant to its terms; (d) the development of any Lot within the Property; or (e) the execution and filing of any estoppel certificate, whether or not the facts therein are correct.

(o) **Estoppel Certificate:** Within thirty (30) days after a determination of compliance is made pursuant to Article Three, Section 3(j) and written demand is delivered to the Board by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Board shall record an estoppel certificate, executed by any two (2) Directors, certifying that as of the date thereof, either: (a) the work completed complies with this Declaration or (b) the work completed does not comply. In the latter situation, the certificate shall also identify the particulars of the noncompliance. Any successor in interest of the Owner shall be entitled to rely on the certificate with respect to the matters set forth therein. The certificate shall be conclusive as between the Association and all Owners and such persons deriving any interest through any of them.

ARTICLE FOUR: Organization of the Association

1. Purpose of the Association: Sequoyah Hills Homeowners' Association, Inc., a non-profit incorporated association, shall have the right and power to do and perform each and every of the following for the benefit, mainte-

nance and improvement of the Property and for the benefit of the Owners thereof, to wit:

(a) To exercise such powers of enforcement, control, interpretation, modification and cancellation of (i) this Declaration (ii) and all restrictions, covenants, conditions, reservations, liens and/or charges imposed upon any portion of the Property and (iii) all rights, powers and authority which now are or hereafter may be vested in, delegated to, or assigned to it, and to pay all expenses incidental thereto; the foregoing includes but is not limited to the right to commence and maintain in its own name and on behalf of itself and/or on behalf of persons owning any portion of the Property and to pay for actions for specific performance, damages for breach and to restrain and enjoin the threatened breach of the Declaration or any restrictions, covenants or conditions and/or to enforce each and every restriction, condition, covenant, reservation, lien or charge to the extent jurisdiction thereof is vested in, delegated to or assigned to the Association.

(b) To landscape and maintain a landscape island in Hansom Drive and also a landscaped island in Keller Avenue, neither of which are owned by the Association or the Owners.

(c) To fix, establish, levy and collect annually or otherwise charges and/or assessments upon the Property and upon each and every Building Site, Lot and Parcel and the Improvements thereon embraced within the Property subject to the jurisdiction of the Association in accordance with and in the manner provided for in the Declaration.

(d) To expend the monies collected by the Association from such charges and assessments and other sums received by the Association for the payment and discharge of costs, expenses and obligations incurred by it in carrying out any and all of the purposes for which it is formed or pursuant to which it is empowered to act.

2. Membership in the Association: All Owners of any portion of the Property shall be members in the Association, and all memberships shall be appurtenant to such record ownership, provided further that:

(a) The ownership of title to any Building Site or any interest therein, either legal or equitable, held as security for the payment or performance of an obligation or act shall not be the basis for membership in the Association; and

(b) A purchaser and not the seller under a contract of sale covering a Building Site, the ownership of which Building Site would qualify one for membership, may only qualify for a membership in the Association by reason of such ownership if such contract is recorded and only so long as such contract is in effect.

(c) When a residential Lot is owned of record in any form of co-ownership such as joint tenancy, tenancy in common, or community property, or when two or more residents are purchasing a residential Lot under a recorded contract or agreement of purchase, the membership as to such Lot shall be joint and the right to such membership (including the voting power arising therefrom) shall be exercised only by the joint action of all owners of record or of all purchasers under said contract or agreement of purchase.

(d) Membership in the Association shall lapse and terminate when any member shall cease to be the owner of record of a home within the Property.

(e) Membership in the Association shall be non-transferable except as a part of and in connection with a sale or transfer of record of a Residence, Lot or Parcel subject to this Declaration.

(f) As to those matters which come before the members of the Association, and in all Association matters the voting power of the members of the Association shall be equal except as provided in subsection (c) above of section 2, each member of the Association shall have one vote per Lot of which the member is an owner of record. Only members in good standing may vote.

3. Maintenance and Improvements:

(a) General Charges, Assessments and Liens: Each Lot and Parcel in the Property, and all the Improvements thereon, shall be subject to a continuous maintenance lien securing payment of the obligations of the Association. The Association shall have sole authority to fix and establish annually the amount of such annual charge or assessment (together with the interest, penalties and costs of collection thereon) which charge or assessment shall be divided equally among the Building Sites, Lots and Parcels included within the Property.

(b) Collection and Expenditure of Charge and Assessment: The Association shall have sole authority to collect and enforce the collection of all

charges and all assessment provided for in this Declaration, together with costs, penalties, and interest imposed for the non-payment thereof (with costs to include reasonable attorneys' fees) and to expend all monies collected from such charges, assessments, costs, penalties and/or interest for the payment of expenses and costs in carrying out the rights and powers of the Association as provided for in this Declaration.

(c) Annual and Special Assessments: Assessments shall be fixed in the following manner by the Board of Directors:

(1) At least thirty (30) days prior to the annual meeting of the Association, the Board of Directors shall estimate the amount to be expended by the Board of Directors during such succeeding year, which shall constitute the maintenance fund, including the reasonable provision for contingencies, less any expected surplus from the previous year's fund. The estimated amount required for the maintenance fund shall constitute the aggregate regular assessment and shall be assessed equally to all the Owners of residential Lots within the Property on a per Lot basis.

(2) If said estimated amount of the regular assessment proves to be inadequate for any reason, the Board of Directors may at any time, levy a special assessment which shall be assessed equally to all of the Owners of the residential Lots within the Property on a per Lot basis.

(3) Each member shall be obligated to pay the Association his regular assessment annually, semi-annually, quarterly or monthly as may be determined in the sole discretion of the Board of Directors. All special assessments shall be paid within such period of time after the levy as the Board of Directors may designate. Any assessment not paid within the period designated by the Board of Directors will be delinquent.

(d) Notice of Delinquency: At any time after the expiration of thirty (30) days after any such charge or assessment against any Building Site, Lot or Parcel has become delinquent, the Board of Directors of the Association may record a notice of delinquent charges and/or assessments (Notice of Lien) as to such Building Site, Lot or Parcel, which notice shall state therein the amount of such delinquency and the interest, costs and penalties which have accrued thereon (including attorneys' fees), a description of the Building Site, Lot or Parcel against which the same has been assessed, and the name of the record or reputed owner thereof, and such notice shall be signed by a Director of the Association upon approval of the Board of Directors. Upon the payment of said charges and assessments, interest, penalties and costs in connection with which such notice has been so re-

corded, or other satisfaction thereof, the Association shall record a further notice stating the satisfaction and the release of the lien thereof. Upon the filing of a notice of delinquency, all rights of the owner as a member of the Association, with regard to whom it is filed shall be automatically suspended, and no longer be in good standing until a notice of satisfaction has been recorded.

(e) Enforcement of Liens: Each lien established pursuant to the provisions of this Declaration, may be foreclosed only after a majority vote of the membership as and in the same manner as is provided for the judicial foreclosure of a mortgage or deed of trust upon real property or by sale by the Board of Directors in accordance with provision of the law applicable to exercise of powers of sale in mortgages or deeds of trust upon real property or in any other manner permitted by law, all according to the laws of California at the date of the commencement of such foreclosure action. Interest shall accrue at the maximum lawful rate on all unpaid charges or assessments from the date of delinquency; in any action to foreclose any such lien, the Association shall be entitled to costs, including reasonable attorneys' fees; and penalties for delinquent charges or assessments shall be established by the Association.

(f) Mortgages and Trust Deeds:

(1) Each and every lien, charge and assessment, together with all costs, penalties and interest established, reserved or imposed under this Declaration shall be subordinate to any valid bona fide recorded mortgage or recorded trust deed (and the lien thereof) which has been or may hereafter be given in good faith and for value by any owner of record on any portion of the Property such that if the beneficiary or mortgagee of said trust deed or mortgage acquires the rights of said owner of record (trustee or mortgagor) by reason of the latter's default (whether acquired by judicial foreclosure or power of sale, or deed in lieu of foreclosure, or otherwise), said beneficiary and mortgagee and that portion of the Property affected by the lien of said mortgage or deed of trust and the subsequent purchaser from said mortgagee or beneficiary shall not be liable for that portion of any lien, charge, or assessment, arising prior to any sale from said beneficiary or mortgagee to said subsequent purchaser. Provided, however, that any such subsequent purchaser or lessee or contract of sale purchaser from said beneficiary or mortgagee shall be bound by the Declaration and all liens and charges provided for herein from and after the date of said sale, lease, or contract of sale.

(2) The Board of Directors, although primarily charged with the responsibility of collecting all annual and special assessments for the areas to be maintained and landscaped shall be bound to permit the holder of any first trust deed affecting any portion of the Property upon its request and so long as it is servicing the trust deed, to make the collection of all annual and special assessments levied if said holder desires to do so provided that said holder agrees to remit all collections to the Association upon demand.

(g) Duties of the Board of Directors: It shall be the duty of the Board of Directors

(1) To cause to be kept a complete record of all of its acts and Association affairs and to present a statement thereof to the membership at the annual meeting of the members or at any special meeting when such is requested in writing by one-third of the total number of votes then entitled to vote.

(2) To supervise all officers, agents and employees of the Association and to see that their duties are properly performed.

(3) To maintain a roster of the properties within the Property and the Assessments applicable thereto open to inspection by any member, and to mail a written notice of each annual and special assessment to every Owner subject thereto.

(4) To issue upon demand by any person a certificate setting forth whether any assessment has been paid.

(5) To render an annual financial report with copies available for the membership of the Association.

ARTICLE FIVE: Enforcement

1. General Enforcement Provisions

(a) Rights of Enforcement: The Association and/or the Committee shall have the right, but not the obligation, to enforce all the provisions of this Declaration in any manner provided by law or in equity, and in any manner provided in this Declaration. The Association shall have the right to enforce all covenants, conditions, restrictions, liens and charges imposed by any conveyance, lease or contract or sale and dealing with any portion of the Property, except as provided to the contrary in the instrument creating the same.

(b) Violation of Provisions: Every act or omission whereby any provision in this Declaration, including, without limitation, the provisions of Article 3, is violated in whole or in part may be remedied by damages, enjoined, abated and/or specifically or otherwise enforced by the Association. Each remedy provided for in this Declaration shall be cumulative and not exclusive.

(c) Violation of Law: Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Lot, Parcel or Residence in the Property is hereby declared to be a violation of this Declaration and is subject to any or all of the enforcement procedures herein set forth.

(d) Liability: If members of the Committee and the Board have acted in good faith, neither the Committee nor the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to any action taken to enforce the provisions of this Declaration.

(e) Attorneys' Fees: In any action to enforce the terms and provisions of this Declaration, the prevailing party shall be awarded reasonable attorneys' fees and costs.

2. Enforcement Mechanism

(a) Notice and Hearing: In the event the Committee or the Board has provided an Owner with notification of a noncompliance and the Owner has failed to remedy the noncompliance, the Board may consider the Owner's continuing noncompliance at a hearing. The Board shall notify such Owner of the time, date and place of any hearing at least fifteen (15) days prior to the date set for the hearing, with such notice delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first-class, postage prepaid, addressed to the Owner at the address given by the Owner to the Board for the purpose of service of notices or to the address of the Owner's Lot if no other address has been provided. At the hearing, the Board in its discretion shall determine whether a valid and sufficient reason exists for the continuing noncompliance, including but not limited to such reasons as (i) a finding by the Board that the violation is de minimus; and (ii) a finding by the Board that the benefits of remedying the noncompliance are far outweighed by the costs of remedying the noncompliance, with consideration given to the length of time,

if any, that the noncompliance existed prior to the issuance of a notice of noncompliance by the Board or the Committee. If the Board in its discretion finds that there is not a valid and sufficient reason for the continuing noncompliance, the Board shall determine the estimated costs of correcting it. The Board shall then require the Owner to remedy or remove the same within a period of not more forty-five (45) days from the date of the Board's determination.

(b) Enforcement: If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board may either remove any noncomplying Alteration(s) or otherwise remedy the noncompliance by appropriate means including, without limitation, causing the noncompliance to be rectified, initiating litigation to obtain an appropriate order, or other means.

(c) Reimbursement Assessment: The Association shall levy a reimbursement assessment against any owner and his or her Lot if a failure to comply with the Project Documents has necessitated an expenditure of monies by the Association to remedy such noncompliance. The amount of such a reimbursement assessment shall include the costs of any enforcement actions taken pursuant to this Declaration, including reasonable attorneys' fees and expert costs. Such a reimbursement assessment shall be due and payable to the Association within such period of time after the levy as the Board may designate. Any reimbursement assessment not paid within the period so designated by the Board will be delinquent, and shall be enforced by the Association pursuant to the lien rights and other provisions of Article Four, Sections 3(d) and 3(e).

ARTICLE SIX: Duration and Modification

1. Duration of Restrictions: All of the provisions including all the restrictions, conditions, covenants, reservations, liens and charges set forth in this Declaration shall continue and remain in full force and effect at all times against the Property, and each part thereof, and the Owners thereof, subject to the right to amend, change, modify and terminate provided for in Section 2 of this Article.

2. Modification of Restrictions: Amendment, change, modification or termination of all or any of the provisions set forth in this Declaration (and as the same may be incorporated in any deed, contract of sale or lease may be made and effected from time to time by written instrument duly ex-

ecuted and recorded by the then-Owners in good standing of at least two-thirds of the Lots subject to this Declaration.

ARTICLE SEVEN: Miscellaneous General Provisions

1. Acceptance of Provisions by Grantees: Each grantee, lessee, and contract of sale purchaser, whether original or subsequent, of any Building Site, Lot or Parcel included in the Property accepts said Lot, site or Parcel subject to all of the provisions including all the restrictions, conditions, covenants, reservations, liens and charges to this Declaration and subject to the jurisdiction, rights and powers of the Association provided for in this Declaration and subject to all other obligations of this Declaration.

2. Conclusiveness of Records: For the purpose of making title search upon or guaranteeing or insuring title of any Building Site, Lot or Parcel or interest therein or lien or mortgage or trust deed thereon embraced within the Property and for the propose of protecting purchasers and/or encumbrancers for value and in good faith:

(a) as to any act or non-act by the Association and/or as to the performance or non-performance of any act by any owner of any Building Site, Lot or Parcel or any interest therein or lien or mortgage or trust deed thereon embraced within the Property, including but not limited to the payment of any change or assessment, a certificate as to any matters contained in the records of the Association certified by the Secretary of the Association shall be conclusive proof as to all such matters shown by such certificates; and

(b) as to any act or non-act by the Association, a certificate as to any matters contained in the records of the Association certified by the Association shall be conclusive proof as to all matters shown by such certificate.

3. Interpretation of Restrictions:

(a) In interpreting and applying the provisions of this Declaration they shall be held to a minimum requirement adopted for the promotion of the health, safety, comfort, convenience and general welfare of the Owners and occupants of the Property. It is not the intent of this Declaration to attempt to abrogate any provisions of any law or ordinance or any rules, regulations, or permits previously adopted or issued or which may hereafter be adopted or issued pursuant to law relating to the use of the Property or Improvements thereon. Nor is it the intent of this Declaration to abrogate or annul easements, covenants, or other agreements between parties. Pro-

vided, however, that where this Declaration imposes a greater or different restriction than is imposed or required by any provisions of law, ordinance, rules, regulations or permits or by such easements, covenants and agreements, then in that case the provisions of this Declaration shall control.

(b) In case of uncertainty or ambiguity as to the meaning of the provisions of this Declaration or any of them the Association shall in all cases interpret the same, and such interpretation shall be final and conclusive.

4. Construction and Validity of Restrictions: All of the provisions including all the restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together; but if it shall at any time be held that any one or more of such provisions, restrictions, conditions, covenants, reservations, liens or charges, or any part thereof is invalid or for any reason become unenforceable, no other provision, restriction, condition, covenant, reservation, lien or charge, or any part thereof, shall be thereby affected or impaired.

5. Waiver and Exemptions: The failure by the Association and/or any owner of any portion of the Property or any other person, to enforce any of the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other provisions.

6. Titles: All titles used in this Declaration, including these of Articles, sections, subsections, are intended solely for convenience of reference, and the same shall not, nor shall any of them, restrict or limit the provisions of the Declaration nor the meaning thereof.

By signing below, the officers of the Association attest and certify that not less than two-thirds of the current record Owners in good standing of the Lots subject to this Declaration have duly executed written instruments approving of the modifications contained within this Declaration, that a list of such Owners and their Lots is attached hereto, and that this Declaration is thereby valid upon recordation.

Dated: 4 April, 2000

Sequoyah Hills Homeowners' Association

By James Haskins
/s/ James H. Haskins
President

By Paul P. Wong
/s/ Paul P. Wong
Secretary

**ARTICLES OF INCORPORATION
OF
SEQUOYAH HILLS HOMEOWNERS ASSOCIATION, INC**

FIRST: The name of the corporation is SEQUOYAH HILLS HOMEOWNERS ASSOCIATION, INC.

SECOND: The purposes for which this corporation are formed are:

a. The specific and primary purpose is to provide and encourage maintenance and preservation of the lots and parcels within, and enforce the covenants and restrictions affecting, all that area of Oakland, California described in the Declaration of Protective Restrictions recorded at Reel 1406 at Image 215 in the Alameda County Recorder's office.

b. The general purposes and powers are:

1. To provide for the improvement and maintenance of the landscaped islands, parking strips, certain hillside areas, public easements, courts, parkways, grass plots, parking areas, and other facilities of any kind dedicated to community use and other open spaces and ornamental features within said area of Oakland, which now exists or which may hereafter be installed, erected, or constructed therein.

2. To exercise such powers of enforcement, control, interpretation, modification and cancellation, in whole or in part, of those certain declarations filed in the office of the Recorder of the County of Alameda in the State Of California on January 4, 1965, in Reel 1406, Image 215, and any amendment or modification thereto.

3. To make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, state, government, or municipal or political subdivision.

4. To receive property by gift, devise, or bequest, subject to the laws regulating the transfer of property by will, and to otherwise acquire and hold all property, real or personal, and to transfer, convey, lease, or otherwise dispose of such real and personal property, and to distribute gifts of property of all kind.

5. To cooperate with the owners of all vacant and unimproved lots and plots now existing, or which hereafter shall exist, in said area of Oak-

land in keeping them in good order and in a sightly condition, and in preventing their becoming a nuisance or a detriment to the beauty of the area and to the value of the improved property therein; and to take any action with reference to such vacant and unimproved lots and plots as may be necessary or desirable to keep them from becoming a nuisance and detriment.

6. To aid, and cooperate with, the members of this corporation and all property owners in said subdivision in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property as shall hereafter be approved by vote of the members of the corporation, and to counsel with the Oakland Planning Commission and City Council and other agencies having jurisdiction in relation to any zoning or other matters which may affect any portion of the subject property.

7. To carry on any activity whatsoever in this state or anywhere in the world, either as principal, agent, or partner, which this corporation may deem proper or convenient in connection with any of the foregoing purposes, or which may be calculated directly or indirectly to promote the interests of this corporation.

8. This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

c. Notwithstanding any of the foregoing statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purpose of this corporation as set forth in paragraph (a) of this article SECOND.

THIRD: This corporation is organized pursuant to the Nonprofit Mutual Benefit Corporation Law of the State of California and does not contemplate pecuniary gain or profit to the members thereof and it is organized for nonprofit purposes. This corporation elects to be governed by all provisions of the Nonprofit Corporation Law of 1980 not otherwise applicable to it under Part 5.

FOURTH: The county in this state where the principal office for the transaction of the business of the corporation is located is Alameda County.

FIFTH:

a. [repealed]

b. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

Name	Address
RAY WRIGHT	8011 Phaeton Drive Oakland, California 94605
LAWRENCE E. MULLALLY	8109 Coach Drive Oakland, California 94605
DARRELL ZAMACOMA	7901 Shay Drive Oakland, California 94605

c. The powers of this corporation shall be exercised, its property controlled, and its affairs conducted by the Board of Directors.

SIXTH: The authorized number, if any, and the qualifications of members of the corporation, the different classes of membership, if any, the property, voting, and other rights and privileges of members, and their liability to dues and assessments and the method of collection, shall be as set forth in the Bylaws.

SEVENTH: Neither the Directors nor the members of the corporation shall be personally liable for the debts, liabilities, or obligations of the corporation.

EIGHTH:

a. This corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits, or dividends to the members thereof and is organized solely for nonprofit purposes.

b. The property of this corporation is irrevocably dedicated to social welfare purposes and no part of the net income or assets of this organization shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private persons.

c. On the dissolution or winding up of the corporation its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation, shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for social welfare purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code and Section 23701f of the Revenue and Taxation Code of California.

NINTH: The name of the existing unincorporated association being incorporated is SEQUOYAH HILLS HOMEOWNERS ASSOCIATION.

IN WITNESS WHEREOF, the undersigned, being the President and the Secretary, respectively, of SEQUOYAH HILLS HOMEOWNERS ASSOCIATION, the unincorporated association which is being incorporated hereby, have executed these Articles of Incorporation on May 22, 1974.

/s/ Ray Wright
President

/s/ Darrel Zamacoma
Secretary

**BYLAWS OF
SEQUOYAH HILLS HOMEOWNERS' ASSOCIATION, INC.**

ARTICLE 1. OFFICES

Principal Office

Section 1.01. The principal office of the corporation for the transaction of its business is located in the County of Alameda, California.

ARTICLE 2. MEMBERS

Classes of Membership and Rights

Section 2.01. The corporation shall have one (1) class of members only, and the property and other rights, interests, and privileges of each member in good standing shall be equal.

Qualifications and Admissions

Section 2.02. All owners of record of any portion of the property subject to that certain Declaration of Protective Restrictions recorded on reel 1406 at image 215 in the Alameda County, California, Recorder's office shall be members in the Association, and all memberships shall be appurtenant to such record ownership, provided, further, that:

(a) The ownership of title to any building site or any interest therein, either legal or equitable, held as security for the payment or performance of an obligation or act shall not be the basis for membership in the Association.

(b) A purchaser and not the seller under a contract of sale covering a building site, the ownership of which building site would qualify one for membership, may only qualify for a membership in the Association by reason of such ownership if such contract is recorded and only so long as such contract is in effect.

(c) When a residential lot is owned of record in any form of co-ownership such as joint tenancy, tenancy in common, or community property, or when two (2) or more residents are purchasing a residential lot under a recorded contract or agreement of purchase, the membership as to such lot shall be joint and the right to such membership (including the voting power arising therefrom) shall be exercised only by the joint action of all

owners of record or of all purchasers under said contract or agreement of purchase.

(d) Membership in the Association shall lapse and terminate when any member shall cease to be the owner of record of a home or building site within the property.

(e) Membership in the Association shall be non-transferable except as a part of and in connection with a sale or transfer of record of a home or building site subject to the Declaration of Protective Restrictions.

(f) As to those matters which come before the members of the Association, and in all Association matters the voting power of the members of the Association shall be equal except as provided in subsection (c) above of this Section each member of the Association shall have one (1) vote per lot of which the member is an owner of record.

Fees, Dues and Assessments

Section 2.03. All fees, dues and assessments shall be fixed in the manner, for the purposes, and enforced as provided in the Declaration of Protective Restrictions recorded on reel 1406 at image 215 recorded in the Alameda County Recorder's office, and any amendment or modification thereto.

ARTICLE 3. MEETINGS OF MEMBERS

Annual Meetings

Section 3.01. The members shall meet annually on the first Monday in November or at such time and place as shall be fixed by the Board of Directors for the purpose of electing Directors and transacting such other business as may come before the meeting, provided, however, that if the Board so determines, Directors may be elected as provided in Section 4.04 hereof, instead of at the annual meeting.

Special Meetings

Section 3.03. Special meetings of members may be called and held at such times and places as may be ordered by the Board of Directors. Special meetings of the members shall be called by the President or by the Board within fourteen (14) days after receiving a written request for such meeting signed by the holders in good standing of not less than ten percent (10%) of the voting power of the corporation.

Notice

Section 3.04. Written, typed, or printed notice of meetings shall be delivered either personally or by mail to each member in good standing addressed to him at his address as it appears on the books of the corporation, not less than seven (7) days prior to the date of such meeting, by or at the direction of the Secretary.

Contents of Notice

Section 3.05. Notice of meetings of members shall specify the place, the day, and the hour of the meeting and, in the case of special meetings, the general nature of the business to be transacted.

Quorum

Section 3.06. The presence in person or by proxy of any number greater or less than a majority of holders in good standing but not less than thirty percent (30%) of the voting power of the corporation shall constitute a quorum.

Adjournment for Lack of Quorum

Section 3.07. In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the members in good standing present in person or by proxy but no other business shall be transacted.

Notice of Adjourned Meeting

Section 3.08. When a meeting of members is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. When a meeting is adjourned for less than thirty (30) days, it is not necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat other than by announcement at the meeting at which the adjournment is taken.

Loss of Quorum

Section 3.09. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum.

Voting Rights

Section 3.10.(a) Each member in good standing shall be entitled to vote on each matter submitted to a vote of the members; subject to the following rules:

(i) Each member beneficially owning one (1) or more single family dwelling lots within the defined area shall be entitled to the number of votes equal to the total number of such lots so owned by him.

(ii) If two (2) or more members own a single lot within the defined area, they shall be entitled to one (1) vote only for such lot.

(iii) No single vote shall be split into fractional votes.

Proxy Voting

Section 3.11. Members in good standing may vote in person or by written proxy executed and filed with the Secretary, provided, however, that no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy.

Conduct of Meetings

Section 3.12. (a) Meetings of members shall be presided over by the President of the corporation or, in his absence, by the Vice President, or in the absence of both, by a chairman chosen by a majority of the members in good standing present in person or by proxy. The Secretary of the corporation shall act as Secretary of all meetings of members, provided that in his absence the presiding officer shall appoint another person to act as Secretary of the meeting.

(b) Meetings shall be governed by Robert's Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent or in conflict with these Bylaws, with the Articles of Incorporation of this corporation, or with law.

ARTICLE 4. DIRECTORS

Number

Section 4.01. The corporation shall have no fewer than four (4) nor more than nine (9) Directors and collectively they shall be known as the Board of Directors.

Powers

Section 4.02. The Directors shall, subject to the limitations set forth in the Articles of Incorporation, exercise the powers of the corporation, control its property, and conduct its affairs and shall enforce as are appropriate all provisions of the Declaration of Protective Restrictions recorded on reel 1406 at image 215 in the Alameda County Recorder's office, together with any amendment or modification thereto.

Qualifications

Section 4.03. Each Director shall be a member of the corporation. Directors shall be eligible for reelection without limitation on the number of terms they may serve, provided they continue to meet the qualifications therefor.

Election and Term of Office

Section 4.04. (a) Directors shall be elected at the annual meeting as set forth in Section 3.01 of these Bylaws, or by mail in such manner as the Board of Directors shall determine, provided, however, that if the election is to be held other than at the annual meeting, at least thirty (30) days' written notice thereof must be delivered to each member either personally or by mail addressed to him at his address as it appears on the books of the corporation.

(b) Candidates receiving the highest number of votes up to the number of Directors to be elected are elected. The first four (4) directorships shall be occupied by the officers of the corporation immediately upon their election as provided in Section 5.02 of these Bylaws. Zero (0) to five (5) additional Directors-at-Large shall be chosen in a separate election, the candidates receiving the highest number of votes being elected.

(c) Each Director shall hold office for one year commencing October 1 and ending September 30 and until his successor is elected.

Vacancies

Section 4.05. Any vacancy or vacancies occurring in the Board of Directors which decreases the number of remaining Directors to less than four (4) shall be filled by a majority vote of the remaining Directors, though less than a quorum, or by a sole remaining Director, such that the number of

Directors be restored to four (4). A Director elected to fill a vacancy shall serve the unexpired term of his predecessor.

Place of Meetings

Section 4.06. (a) Meetings of Directors shall be held at such place which has been designated from time to time by resolution of the Board.

Regular Meetings

(a) The Board of Directors shall meet regularly at least once each quarter on such day and at such time as it shall by resolution specify.

Special Meetings

(b) Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors.

Notice

(c) Notice of the time and place of meetings shall be given by, or at the direction of, the Secretary to each Director personally, by electronic mail or by United States mail addressed to him at his address as it appears on the books of the corporation at least seven (7) days prior to the date of the meeting.

Quorum

(d) Three (3) Directors shall constitute a quorum for the transaction of business.

Rules of Order

(e) Meetings of Directors shall be governed by Robert's Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent or in conflict with these Bylaws, with the Articles of Incorporation, or with law.

Majority Action as Board Action

Section 4.07. Every act or decision done or made by a majority of the Directors present at any meeting duly held at which a quorum is present is the act of the Board of Directors, unless the law, the Articles of Incorporation, or these Bylaws require a greater number.

ARTICLE 6. OFFICERS

Number and Titles

Section 5.01. The officers of the corporation shall be a President, a Vice President, a Secretary, and a Treasurer.

Qualification and Election

Section 5.02. Officers shall be members of the corporation and be elected at the annual meeting as set forth in Section 3.01 of these Bylaws, or by mail in such manner as the Board of Directors shall determine, provided, however, that if the election is to be held other than at the annual meeting, at least thirty (30) days' written notice thereof must be delivered to each member personally or by mail to the member's address as it appears on the books of the corporation.

Term

Section 5.03. Each officer shall hold office for one year commencing October 1 and ending September 30 and until his successor is elected.

Vacancies

Section 5.04. A vacancy in any office shall be filled by a majority vote of the Board of Directors.

Duties of President

Section 5.05. The president shall exercise general supervision of the affairs and activities of the corporation, shall preside at all meetings of the members and Board of Directors at which he is present, and shall serve as an ex officio member of all committees.

Duties of Vice President

Section 5.06. The Vice President shall assume the duties of the President whenever the latter is absent or is unable or refuses to act.

Duties of Secretary

Section 5.07. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall be the custodian of all corporate and membership records.

Duties of Treasurer

Section 5.08. The Treasurer shall receive all funds of the corporation, shall deposit such funds as provided in Section 7.03 of these Bylaws, and shall pay out funds as directed by the Board of Directors.

Compensation

Section 5.09. Officers of the corporation shall serve without compensation.

ARTICLE 14. COMMITTEES

Section 6.01. The Board of Directors may establish such committees and appoint or replace members thereto as it deems necessary.

ARTICLE 16. INSTRUMENTS, DEPOSITS, AND FUNDS

Contracts

Section 7.01. The Board of Directors may authorize any officer or agent of the corporation, 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 corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority, except as in these Bylaws provided, to bind the corporation by any contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or in any amount.

Checks

Section 7.02. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by the Treasurer and countersigned by the President unless otherwise directed by resolution of the Board of Directors as provided in Section 7.01 hereof.

Deposits

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

Gifts

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

ARTICLE 18. BYLAWS

Effective Date

Section 8.01. These Bylaws shall become effective immediately on their adoption by the Directors. Amendments to these Bylaws shall become effective immediately on their adoption unless the Board of Directors, or members, in adopting them, provide that they are to become effective at a later date.

Amendment

Section 8.02. Except as otherwise expressly provided herein, new Bylaws may be adopted or these Bylaws may be amended or repealed by the vote or written assent of members entitled to exercise a majority of the voting power of the corporation, or by the vote of a majority of a quorum at a meeting duly called and noticed for the purpose, and subject to the power of the members to change or repeal them, and subject to law, by a vote of a majority of the Directors.

ARTICLE 20. MISCELLANEOUS PROVISIONS

Corporate Seal

Section 9.01. The Board of Directors shall provide a corporate seal. Such seal shall be affixed to all corporate instruments, but failure to affix it shall not affect the validity of any such instrument.

Fiscal Year

Section 9.02. The fiscal year of the corporation shall be October 1 through September 30.

Construction

Section 9.03. As used in these Bylaws:

(a) The present tense includes the past and the future tenses, and the future tense includes the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural, and the plural number includes the singular.

(d) The word "shall" is mandatory and the word "may" is permissive.

(e) The words "Directors" and "Board," as used in the Articles of Incorporation or in these Bylaws in relation to any power or duty requiring collective action, mean the Board of Directors.

(f) "Defined area" is the area subject to those covenants and restrictions as recorded on reel 1406 at image 215 in the Alameda County Recorder's office.

SPECIAL RULES OF ORDER

Board Resolution adopted 4 October 2000

Every year, the Board of Directors is authorized to approve the minutes of the annual meeting at its first following meeting.

STANDING RULES & POLICIES

Board Resolution adopted 12 January 2000

The below Complaint Resolution Flowchart [see pages 42–43] shall become the standard procedure for handling all complaints brought by members of the Sequoyah Hills Homeowners Association, except in cases where the Board warrants that emergency action is required.

Board Resolution adopted 12 January 2000

1. The below form [see page 44] shall be used to record and track all complaints made by members of the Sequoyah Hills Homeowners Association.
2. Such records shall be the confidential property of the Board and the committee processing the complaint.

Board Resolution adopted 12 January 2000

1. The Sequoyah Hills Homeowners Association adopts the view resolution standards contained in subparts (B) through (G) of Section 15.52.050 of the Oakland Municipal Code as it exists on January 12, 2000.
2. These standards shall be uniformly applied to complaints formally brought under Article III, Section 2, Subsection (a), Paragraph (3) of the First Amended Declaration of Protective Restrictions.
3. Unless otherwise agreed by the parties, the tree owner shall be required to bear the entire cost of all mandated restorative actions and replacement plantings.

(Text of the adopted standards:

B. The character of the view shall be determined by evaluating:

- 1. The vantage point(s) from which the view is obtained;*
- 2. The existence of landmarks or other unique features in the view;*

3. *The extent to which the view is diminished by factors other than the tree(s) involved in the claim.*

C. *The character of the view obstruction shall be determined by evaluating:*

1. *The extent of the alleged view obstruction, measured to arrive at a percentage of the total view. Measurement of the alleged view obstruction shall be calculated by means of a surveyor's transit, or by photography, or both;*

2. *The extent to which landmarks or other unique features in the view are obstructed.*

D. *The extent of benefits and/or burdens derived from the tree(s) in question shall be determined with consideration given to the following factors:*

1. *Visual screening provided by the tree(s);*

2. *Wildlife habitat provided by the tree(s);*

3. *Soil stability provided by the tree(s), as measured by soil structure, degree of slope and extent of tree(s) root system;*

4. *Energy conservation and/or climate control provided by the tree(s);*

5. *Effects on neighboring vegetation created by the tree(s);*

6. *Visual, quality of the tree, including but not limited to species characteristics, size, growth, form, vigor, and location;*

7. *The economic value of the tree(s) as measured by the criteria developed by the International Society of Arboriculture;*

8. *Other tree-related factors, including but not limited to:*

a. *Indigenous tree species,*

b. *Specimen tree quality,*

c. *Rare tree species,*

d. *Historic value.*

E. *Restorative actions shall be limited to the following:*

1. *No action;*

2. *Trimming;*

3. *Thinning;*

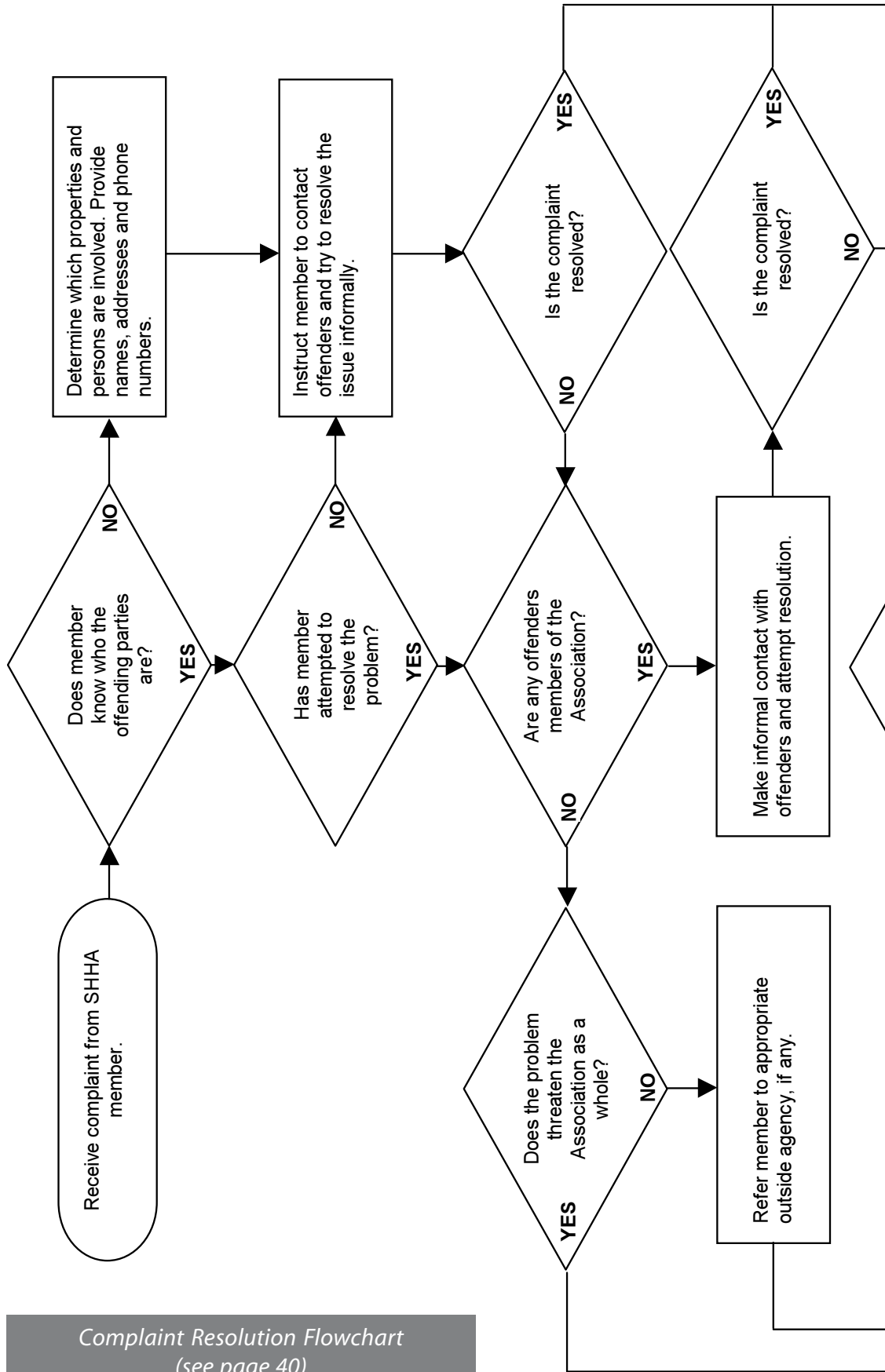
4. *Topping;*

5. *Tree removal with necessary replacement plantings.*

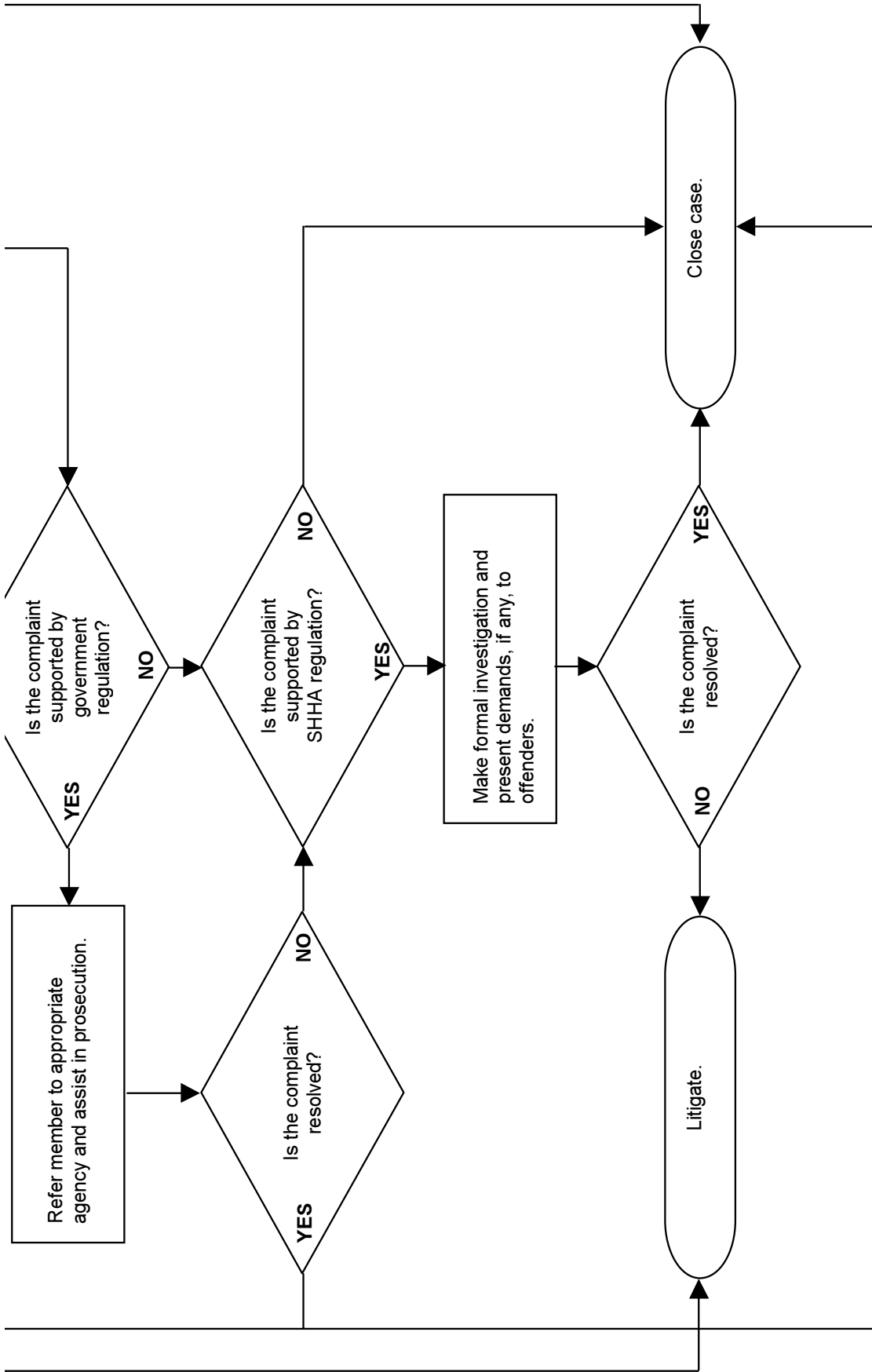
F. *Each type of restorative action shall be evaluated based on the above findings and with consideration given to the following factors:*

1. *The effectiveness of the restorative action in reducing the view obstruction;*

2. *Any adverse impact of the restorative action on the benefits derived from the tree(s) in question;*



Complaint Resolution Flowchart
(see page 40)



Sequoyah Hills Homeowners Association Complaint Record

Complainant _____	Date _____
Address _____	Telephone _____
Taken by _____ <input type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> in-person	
Respondent(s) _____	
Description of complaint _____	

Followup

Date _____	By _____
Action _____	
Result _____	

Followup

Date _____	By _____
Action _____	
Result _____	

Followup

Date _____	By _____
Action _____	
Result _____	

This document is the confidential property of the Board of Directors of the Sequoyah Hills Homeowners Association and its authorized committees.

3. *The structural and biological effects of the restorative action on the tree(s) in question;*

4. *The cost of the restorative action, as determined by consultation with licensed arborists located in Oakland.*

G. *All restorative actions shall be undertaken with consideration given to the following factors:*

1. *All restorative actions must be consistent with the tree preservation ordinance as set forth in Chapter 12.36 of this code.*

2. *Restorative actions shall be limited to the trimming and/or thinning of branches where possible.*

3. *When trimming and/or thinning of branches is not a feasible solution, topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.*

4. *Tree removal shall only be considered when all other restorative actions are judged to be ineffective and shall be accompanied by replacement plantings of appropriate plant materials to restore the maximum level of benefits lost due to tree removal. Replacement plantings can be required on the tree owner's or the claimant's property.*

5. *In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to tree removal; notwithstanding the provisions of subsection (G)(4) of this section, the tree owner may elect tree removal with replacement plantings as an alternative to trimming, thinning or topping.*

6. *All trimming, topping, thinning and tree removal required under this chapter must be performed by a licensed arborist.)*

Board Motion adopted 11 July 2000

The Board shall reject legal action in all cases of view obstruction by trees; instead, notice shall be given to the complaining member that the Board is unable to resolve the case and that the matter must be further pursued on the member's initiative and at his or her own expense.

Board Motion adopted 9 January 2001

A fee of \$50 is imposed on all transfers of property within the Association, said fee to be collected by the Treasurer.

Board Motion adopted 8 July 2003

The Safety Committee shall have the same procedures as the Environmental Committee for contacting and encouraging homeowners to comply with the DPRs.

Board Motion adopted 6 April 2004

The Board may at its discretion collect past due assessments through an action in small claims court.

SEQUOYAH HILLS HOMEOWNERS ASSOCIATION ARCHITECTURAL GUIDELINES

APRIL 2001

LAST MODIFIED MARCH 2005

These guidelines are intended to supplement and give general direction to Article Three, Section 3, "Environmental Control," of the Sequoyah Hills Homeowners Association (SHHA) Second Amended Declaration of Protective Restrictions (DPRs).

Environmental Committee Statement of Purpose

The purpose of the SHHA Environmental Committee is the preservation of value (the nature and character) of properties within the Association. The Environmental Committee, in conjunction with the SHHA Board of Directors and as provided for in Article Three, Section 3 of the DPRs, has formulated the following Architectural Guidelines for the SHHA. These guidelines are to provide assistance in determining appropriate maintenance of properties and in making any changes to the physical appearance of your property. It is the intent of the Environmental Committee to carry out the responsibilities of Section 3 to the best of its knowledge and abilities, without personal bias and in a non-discriminatory fashion. In recognizing that each individual homeowner uniquely contributes to the character of the Association, the Committee shall endeavor to affirm the dual expectations of harmony and control.

Property Maintenance

Article Three, Section 2 of the DPRs refers to properties being maintained in "first class condition." The architectural guidelines define this to mean:

1. Exterior of homes in good condition; no obvious repairs needed on roof or siding; paint not peeling; free of clutter visible from the street.
2. Landscaping weed-free, healthy and maintained, including control of growth on owner's property.
3. Hardscape, fences, driveways, walls in good condition without need of repair of cracks, excessive stains or deteriorating materials.

General Notes:

1. These are guidelines only and all additions and modifications made on any lot must be submitted for approval by the SHHA Environmental Committee (hereinafter referred to as "Committee") before installation.
2. To expedite the process, please provide the Committee with the following information:
 - a. Owner name and address. Use the Architectural Review Application Form available from the SHHA Environmental Committee. **This application form can be downloaded or printed from the SHHA web site at sequoyahhome.org/records/.**
 - b. Architectural plan submittal consists of: plot plans; elevations and details that demonstrate all materials, colors and dimensions of proposed structures, walls ponds, pools, etc.; species and proposed location of all trees; location and materials for all hardscape. Plans may be hand drawn, but must be drawn to scale.
3. The Committee has a forty-five (45) day period from receipt of complete submittal to respond in writing to the Owner. All efforts will be made to respond in a shorter period of time if possible.
4. All landscape and architectural alterations must be designed to meet the City of Oakland code regulations in regards to set backs and all other rules and regulations.
5. Completion of the work approved must occur within one year following commencement of the work.
6. All submittals and plans should be sent to:

**Environmental Committee
Sequoyah Hills Homeowners Association
PO Box 18586
Oakland, California 94619-8586**

General Guidelines:

A. Patio Structures, Decks, Sunshades, Arbors, Trellises, Gazebos:

1. Structures shall only be allowed which conform exactly to the plans and specifications contained herein or as may otherwise be approved by the Committee in accordance with procedures outlined in the DPRs.
2. Patio structures, when attached to the residence, may not exceed 10 feet in height. Freestanding gazebos, arbors, trellises or sunshades may not exceed 9 feet in total height and shall be placed so as not to be visible from the street or blocking the view of others. Placement of structures shall be subject to the setback requirements of the City of Oakland and control of the Committee.
3. Decks must be placed so that no part of the deck, including railing, exceeds the height of side yard fencing, generally 6 feet maximum. Exceptions may be made to decks on split-level or two-story homes where the deck and railing do not extend beyond the sides of the home as viewed from the street in front of the home.
4. Exposed surfaces of structures shall match or harmonize with the colors and materials of the existing dwelling.
5. Placement of attached sunshades and awnings shall be subject to approval of the Committee.
6. In general, attachment of structures to fences is discouraged.
7. Storage sheds shall not exceed the height of the fencing and shall be constructed of a compatible material and color to match the home.
8. All structures shall be constructed so as not to alter existing drainage patterns around residence.
9. The potential for noise in the use of the alterations described by a submitted plan will be a consideration of the Committee.

B. Landscaping:

1. No trees or bushes shall be allowed to grow in size and height so as to block the sightline views at intersections, nor should any tree or bush be planted that blocks such views.

2. Tall or fast-growing trees, such as Monterey Pine, Coastal Redwood, or Eucalyptus, are inappropriate for planting in the neighborhood due to their propensity to affect scenic views of surrounding neighbors.
3. Landscaping shall be maintained in such a manner so as not to impede access on public sidewalks or neighboring properties.
4. Any lighting used to illuminate outdoor areas shall be equipped with suitable shielding or be designed as to avoid casting direct light upon any other dwelling or Lot.

C. Pool/Spa:

1. Drainage and pool/spa construction standards shall conform to overall development grading and drainage standards and to the State, County and City codes and standards. All pools and spas constructed require a permit to build from the local building department and a copy of the permit must be filed with the Committee.
2. All pool and spa heaters must be of the stack-less type.
3. All pool and spa equipment shall be screened from the view of adjacent property and from the public view. All pool and spa equipment shall be located or sound attenuated in such a manner so as not to disturb the occupants of adjacent or nearby properties

D. Signs:

Signs on residential lots are restricted to those typically used to advertise the sale or lease of a house. All other signs must be approved by the SHHA Board of Directors.

E. Repainting Exteriors:

Repainting of exteriors shall not require approval of the Committee, so long as the color palette to be used in the repainting is within the general palette already used on homes within the development. Any color scheme that is not so, should be presented to the Committee for approval. In its determination, loud, bright or other tones of color generally not in harmony with the existing color palette of the development will be discouraged.

F. Exposed Equipment:

1. Air conditioning equipment, water softeners and other such equipment shall be screened from the view of the adjacent property and shall be located or sound attenuated in such a manner so as to not disturb the occupants of adjacent or nearby properties.
2. Other than to receive local broadcast television, no outside antenna, aerial, or other such device shall be erected, constructed or placed on any property. In accordance with Section 207 of the Telecommunications Act of 1996, microwave or satellite dishes that have a diameter or diagonal measurement of more than one (1) meter (39.37 inches) will not be permitted within the development. Microwave or satellite dishes that have a diameter or diagonal measurement of one (1) meter or less must comply with the following guidelines:
 - a. Microwave or satellite dishes can be installed within the Owner's fenced area of the lot or on the roof in a non-exposed location. The microwave or satellite dish cannot be attached to the fence or to a fence post.
 - b. Microwave or satellite dishes are to be installed in as low a location as possible that allows reception of an unimpaired signal.
 - c. If the cable from the dish to the receiver is more than three (3) feet long before entering the building, then the cable and all fasteners used in securing the cable to the building must be painted to match the mounting surface.
 - d. All sealant used to prevent the intrusion of water into the building must be painted to match the mounting surface.
 - e. The cable should have a one-foot loop lower than the point of entry into the building to prevent water intrusion.
 - f. The height of the top of the dish should not exceed the highest point of the existing dwelling on the lot.
3. All garbage, trash and accumulated waste material shall be placed in appropriate covered trash containers, which may be placed (in front of your residence) where visible no earlier than

12 noon the day prior to pick up and must be removed by 12 noon the day after the pickup.

G. Flag Poles:

Flag poles shall be allowed on a lot when plans are properly submitted and duly approved by the Committee, but in no case shall the height of the pole exceed the highest point of the existing dwelling on the lot.

H. Fences:

The composition, location, height and color of any fences to be constructed or added to the existing fences on any lot shall be subject to the approval of the Committee. The Committee shall require the composition of any fences to be consistent with the material used in the surrounding homes and other fences, if any. Front yard fences must be set back at least one foot from the sidewalk.

I. Window Coverings:

Acceptable window coverings can be installed without the approval of the Committee. Prohibited materials for window coverings are newspaper, sheets, towels, foil, paper, or any material that reflects light in a manner which intensifies glare as seen from neighboring properties. If you are unsure whether your proposed window coverings will qualify for automatic approval, you should submit an application for approval, detailing materials to be utilized.

J. Sports Equipment:

No basketball standards, fixed sports apparatus or similar equipment may be attached to the exterior of a residence in a location visible from the street, or permanently placed on any lot in a location visible from the street. Portable sports equipment may not be left on the exterior areas of the property visible from the street and must be stored in the garage, side yard area behind the fence or other locations out of view when not in use.

K. Conditions not Defined:

Any conditions or material not defined within this guideline shall become a matter of judgment on the part of the Committee unless described in the DPRs of the SHHA, or regulated by City, County, or Governmental codes. See DPRs for general use restrictions.

L. Conflict:

If there is a conflict between these Architectural Standards and the DPRs, the provisions of the DPRs shall prevail.

M. Changes During Construction and Completion:

Any changes to the approved plans will require the approval of the Committee. Upon completion of all approved work, the Owner is to notify the Committee so that an inspection of the completed work to the approved plans may be scheduled.

N. Workmanship:

The work must be performed in a manner consistent with the standards of the general dwelling construction and appearance of the community. Any work considered to be of an unsightly, unfinished nature or of a lesser quality than the prevailing community standards will be required to be touched up or reworked to an acceptable level of appearance.

O. Enforcement:

1. Failure to obtain necessary approval from the Committee may constitute a violation of the DPRs of the SHHA.
2. If the committee has determined that an Owner has made an improvement without approval or has not constructed an improvement consistent with the specifications of the approval granted and if the Owner fails to remedy such non-compliance in accordance with the provisions of the Notice of Non-compliance, then after the expiration of thirty (30) days from the date of such notification, the Board shall have the Committee provide Notice of Hearing to consider the Owner's continuing non-compliance. At the Hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board will require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Committee determination. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board at its discretion may grant, the Board will initiate appropriate legal action against the Owner.

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Sequoyah Hills

Homeowners Association

PO Box 18586
Oakland, CA 94619-8586

Toll-free voice & fax:
(877) 922-7111

Collected Rules and other
documents are available online
in Adobe Acrobat PDF format on
the SHHA Web site:
sequoyahhome.org/records/