



675 Picasso Terrace Sunnyvale, CA 94087 TEL (408) 735-8012 FAX (408) 735-8540

Resolution #:	<u>4</u>
Dated:	<u>1/21/81</u>
Amended:	<u>1/3/83</u>
Amended:	<u>7/17/85</u>
Amended:	<u>12/12/01</u>
Amended:	<u>2/19/03</u>

**SUNSET OAKS HOMEOWNERS' ASSOCIATION**

Resolution of the Board of Directors  
At the meeting of February 19, 2003

WHEREAS, the undersigned, constituting the members of the Board of Directors (the BOD) of the Sunset Oaks Homeowners' Association (the Association) are responsible for administrating and maintaining the affairs of the Association pursuant to the Declaration of Conditions, Covenants and Restrictions pertaining to the Sunset Oaks Homeowners' Association (the CC&R's); and

WHEREAS, the BOD recognizes the need for a reasonable means of encouraging and insisting upon compliance with the provisions of the CC&R's, the Association's By-Laws and the Association's Rules and Regulations without the need for resorting to lawsuits for injunctive relief in all instances; and

WHEREAS, the BOD has the power to adopt reasonable rules and regulations concerning the affairs of the Association pursuant to the CC&R's and the Association's Articles of Incorporation; and

WHEREAS, the BOD believes that a system of fines levied for good cause and after reasonable notice has been given, would assist in encouraging compliance with the Association's CC&R's, By-Laws and Rules and Regulations.

**NOW THEREFORE LET IT BE RESOLVED AS FOLLOWS:**

1. The BOD shall have the power to issue a fine against any member of the Association found to be in violation of the Association's CC&R's, By-Laws or Rules and Regulations in an amount outlined in Table A. Fines may not exceed \$3,000.00 in any one calendar year for a single violation or repetitive violations of the same type not to include penalty charges.
2. No fine shall be levied against any member(s) of the Association except in accordance with the following procedure:
  - (a) A hearing to determine whether a member of the Association has violated a provision of the Association's CC&R's, By-Laws and/or Rules and Regulations shall be initiated by the filing of a written complaint by any member of the Association or any officer or member of the BOD with the president, secretary or management of the Association or other presiding member of the BOD. The complaint shall contain a written statement of the alleged violation which shall be set forth in ordinary and concise language, the acts or omissions with which the accused member is charged and a reference to the specific provision(s) of the Association's CC&R's, By-Laws and/or Rules and Regulations which are alleged to have been violated. A "Notice of Violation" shall be delivered to the accused member (the "respondent") either by personal delivery or by first-class mail, postage prepaid, addressed to the respondent at the address set forth on the Association's books and records, together with a statement which shall be substantially in the following form:

"Unless a written request for a hearing signed by or on behalf of the person named as the respondent in the accompanying complaint is delivered or mailed to the Board of Directors of the Sunset Oaks Homeowners'

Association within fifteen (15) days after said complaint was delivered or mailed to you, the BOD may proceed upon the complaint without a hearing, and you will have thus waived your right to a hearing. The written request for a hearing shall be delivered or mailed to:

Board of Directors  
Sunset Oaks Homeowners' Association  
675 Picasso Terrace  
Sunnyvale, CA 94087

You may, but need not, be represented by an attorney at any or all stages of these proceedings. If you desire the names and addresses of the witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the BOD, you may contact the Association Manager whose phone number is: 408-735-8012 and address is: 675 Picasso Terrace, Sunnyvale, CA 94087. Office hours are Monday, 11:00 AM – 2:00 PM; Wednesday, 4:00 PM – 7:00PM; and Friday, 2:00 PM – 5:00 PM.”

- (b) The respondent shall be entitled to a hearing on the merits of the matter if a written request for a hearing is filed with the BOD as outlined in the Notice of Violation. The respondent may file a separate statement by way of mitigation, even if no request for a hearing is made. The hearing on the violation shall be conducted in executive session with the respondent present, if so requested by the respondent.
  - (c) The hearing shall be held at a regular Board Meeting pursuant to notice, affording the respondent a reasonable opportunity to be heard prior to the imposition of any sanction hereunder. Proof of notice and the invitation to be heard shall be placed in the Minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with the statement of the date and manner of delivery is entered by the person who mailed or delivered such notice. The notice requirement may also be deemed satisfied if the respondent appears at the meeting. The Minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed.
3. In the event of an alleged violation of the Association's CC&R's, By-Laws and/or Rules and Regulations, and upon an affirmative vote of the majority of the members of the Board present at the hearing, the Board shall have the right to fine the respondent for the initial incident for his/her violation. Fines shall be levied in accordance with Table A. If the majority of the Board members present at the hearing vote to fine the respondent, the respondent shall be notified in writing of the amount of the fine as well as the provision(s) of the Association CC&R's, By-Laws and/or Rules and Regulations which the respondent is found to have violated, and said notice shall be either delivered to the respondent or mailed to him/her by first-class mail, postage prepaid, at the address of the respondent as contained in the Associations books and records, within ten (10) days after the hearing.
  4. The amount of any fine levied shall be due and payable within ten (10) days after the notice referred to in paragraph 3 above has either been delivered or mailed to the respondent. If, on the eleventh (11<sup>th</sup>) day, the fine remains unpaid or the violation is not corrected, a continuing penalty may be assessed until the situation is corrected. Continuing penalty amounts will conform to guidelines shown in Table A.
  5. If the violation for which the respondent has been found to have committed continues after notice to respondent of the ruling of the BOD, then the BOD may institute legal proceedings to obtain

appropriate court orders to cure the violation. Similarly, if the fine imposed by the BOD has not been paid within ten (10) days after the notice referred to in paragraph 3 has either been hand delivered or mailed to the respondent; the BOD may then institute legal proceedings to collect the amount of the fine. In any such legal proceedings, the BOD will also seek all other costs and fees associated with the process, including reasonable attorneys' fees.

Table A: Fining Amounts per event:

Class of Violation	First Occurrence	Continuing Penalty	Repeat Occurrence within 12 months
<b><u>Minor</u></b> <ul style="list-style-type: none"> <li>• Violation of CC&amp;R's, By-Laws, Resolutions and Rules and Regulations</li> <li>• Incidents costing the Association &lt;\$1,000</li> </ul>	\$25.00	\$10.00 per month, not to exceed \$600.00	\$25.00
<b><u>Major</u></b> <ul style="list-style-type: none"> <li>• Safety Hazards</li> <li>• Incidents costing the Association \$1,000 or more</li> </ul>	\$100.00	\$25.00 per month, not to exceed \$1,500.00	\$100.00
<b>NOTE:</b> Any fine assessment is in addition to a respondent's liability for corrective action costs incurred by the Association.			

IN WITNESS WHEREOF, the members of the Board of Directors have approved this Resolution on this 19<sup>th</sup> day of February 2003.

\_\_\_\_\_  
 Kathleen Schaefer, President

\_\_\_\_\_  
 Rich Robertson, Vice-President

\_\_\_\_\_  
 William Tom, Treasurer

\_\_\_\_\_  
 Carol Molyski, Secretary

\_\_\_\_\_  
 Lynda Marcum, Director

\_\_\_\_\_  
 Vacancy

\_\_\_\_\_  
 Vacancy

Sample "Notice of Violation" Letter:

Date

Name/Respondent  
Street Address  
City/State/Zip code

You have been cited by the Board of Directors of the Sunset Oaks Homeowners' Association for violation of Article \_\_\_\_\_, Section \_\_\_\_\_ of the Covenants, Conditions and Restrictions (CC&R's)/Resolution #\_\_\_\_\_, Section \_\_\_\_\_.

On \_\_\_\_\_ date \_\_\_\_\_, at \_\_\_\_\_ location \_\_\_\_\_, it was observed by \_\_\_\_\_ that \_\_\_\_\_

On \_\_\_\_\_ date \_\_\_\_\_, \_\_\_\_\_ date \_\_\_\_\_, and \_\_\_\_\_ date \_\_\_\_\_, letters were sent to you advising you of the violation. As of the date of this letter, the observed violation(s) has not been corrected. In accordance with Resolution #4, dated February 19, 2003, The Board of Directors may levy a fine against any homeowner that violates the rules and regulations specified in the associations governing documents. At the monthly Board of Directors meeting to be held on \_\_\_\_\_ date \_\_\_\_\_, at 7:00 P.M. in the Sunset Oaks Association Clubhouse, the Board of Directors will conduct a hearing to determine whether the above-described violation occurred. If, at this hearing, it is found by the Board of Directors that you have committed the alleged violation, you may be fined \_\_\_\_\_ dollar amt \_\_\_\_\_ as a result of the violation.

Furthermore, you are directed to refrain from \_\_\_\_\_.

You, as the respondent are entitled to a hearing on the merits of this matter if you so request. If you request such a hearing in the manner and within the time limits set forth in this letter, the Board will make no findings prior to the hearing and will schedule a hearing on the merits for the next regularly scheduled meeting of the Board, or at another date and time mutually agreeable to you and the Board. If you wish to have the hearing conducted in private, you are also entitled to request that the Board meet in executive session for purposes of conducting the hearing. To request a hearing, a written request signed by or on behalf of the respondent must be delivered or mailed to the Board of Directors within fifteen (15) days of the date of this letter. If no request for a hearing is made during this time, the respondent waives his/her right to a hearing and the Board will proceed upon the complaint without a hearing. The written request for a hearing shall be delivered or mailed to the Sunset Oaks Homeowners' Association Clubhouse at:

Board of Directors  
Sunset Oaks Homeowners' Association  
675 Picasso Terrace  
Sunnyvale, CA 94087

You may, but need not, be represented by an attorney at any and all stages of these proceedings. If you desire the names and addresses of the witnesses or an opportunity to inspect any relevant writing or items on file in connection with this matter that are in the possession, custody or control of the Board of Directors, you may contact the Association Manager at the above address during the following office hours: Monday, 11:00 AM – 2:00 PM; Wednesday, 4:00 PM – 7:00PM; and Friday, 2:00 PM – 5:00 PM.

In addition to a hearing, you may also choose to send the Board of Directors a written statement regarding the violation(s). Written statements should also be delivered or mailed within 15 days of the date of this letter.

If you should have any questions, please direct them to the Association Manager.

Thank you,

Board of Directors  
Sunset Oaks Homeowners' Association