

**COVENANTS, CONDITIONS, AND RESRICTIONS
SUBDIVISIONS 2991, 4508 & 4755
ORINDA DOWNS**

WHEREAS, the Orinda Downs Homeowners' Association ("Association" or "ODHA") was formed for the purpose of the enforcement of covenants, conditions and restrictions and for the general improvement of the following real property:

Subdivision 2991, filed March 15, 1968, Map Book 119, Page 29, Subdivision 4508, filed March 25, 1976, Map Book 186, Pages 6 – 10 incl.; Subdivision 4755, filed January 26, 1977, Map Book 192, Pages 38 – 44 incl., Official Records of Contra Costa County.

EXCEPTING THEREFROM: The rights reserved in the deed from East Bay Municipal Utility District, recorded October 22, 1959, Book 3479 Official Records, Page 35.

WHEREAS, the undersigned Association now desires to amend the covenants, conditions, and restrictions ("CCRs") imposed covering Subdivisions 2991, 4508 and 4755, and further declares that all of said Subdivisions 2991, 4508 and 4755, shall be subject to the following CCRs, as amended, which are made for the mutual benefit of and shall be enforceable by the Association and all of the lot owners, which CCRs are imposed as a part of a general and uniform plan for the improvement of said tracts are as follows:

DECLARATION OF TERMS

Building site shall mean any lot, or portion thereof, or any two or more contiguous lots, or a parcel of land of record and in a single ownership and upon which a structure has been or may be erected in conformance with the requirements of these CCRs. All building sites in the tract shall be known and described as residential building sites.

1. PROPERTY SUBJECT TO THESE CCRs. The real property which is and shall be held, and shall be conveyed, transferred and sold subject to the conditions, restrictions, covenants, reservations, easements, liens and charges with respect to the various portions thereof set forth in the various sections and subdivisions is located in the County of Contra Costa, State of California, and is more particularly described as follows:

Subdivision 2991, filed March 15, 1968, Map Book 119, Page 29,
Subdivision 4508, filed March 25, 1976, Map Book 186, Pages 6 – 10 incl.,
Subdivision 4755, filed January 26, 1977, Map Book 192, Pages 38 – 44 incl.,

Official Records of Contra Costa County.

No other property other than that described above shall be deemed subject to these CCRs, unless and until specifically made subject thereto.

The Association may, from time to time, subject additional real property to the conditions, restrictions, covenants, reservations, liens, and charges herein set forth by appropriate reference thereto. The official covenants, conditions and restrictions have been recorded with the Contra Costa County Recorder's office.

2. PURPOSES OF CONDITIONS: The real property described in Section 1 hereof is subject to the covenants, conditions, restrictions, reservations, liens, and charges hereby declared in order to insure the best use of and the most appropriate development, improvement and maintenance of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property, to preserve so far as practicable the natural beauty of said property, and in general, to provide adequately for a high type and quality of improvement in said property and thereby to enhance the value of investments made by purchasers of homes and building sites herein. In furtherance of these general objectives due consideration shall be made to preventing the erection or maintenance of poorly designed or proportioned structures, structures with repetitive exterior architectural design, structures, built of improper or unsuitable materials, and structures or improvements which are haphazard or inharmonious with the topography of a particular building site. Every effort shall be made to secure and maintain property setbacks from streets, adequate free spaces between structures and to insure the highest and best development and maintenance of each building site consistent with the particular topography thereof and the privacy, comfort and enjoyment of the purchasers of other homes and building sites.
3. COMMITTEE APPROVAL: No building, fence, wall, rip rap or other structure shall be commenced, erected or maintained on said tract nor shall any addition to or change or alteration therein (including any retreatment by painting or otherwise of any exterior part thereof) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme and location of such structure and the grading plan of the plot be built upon shall have been submitted to and approved in writing by the OHDA Architectural Review Committee (hereinafter referred to as "Committee"), and a copy thereof, as finally approved, lodged permanently with the Committee. The Committee may develop and employ a form for use with submissions ("Application") The plans and specifications for any major construction or alteration shall be prepared by a licensed architect; provided, however, that the Committee may approve the services of a competent designer in lieu of the services of a licensed architect. Prior to giving approval to any improvement of any sort, the Committee shall first determine whether such improvement complies with the specific covenants, conditions and restrictions set forth herein and whether it is consistent with the factors set forth in Section 2 hereof. To facilitate Committee Review and make sure that interested parties have an opportunity to comment or object, the owner seeking plan approval shall submit, with their Application, proof of written notice of their plans to "neighbors." For this purpose, "neighbors" are those on any side of the property and those across the street with visibility to the proposed changes. Written notice may be by email or letter. Neighbors so informed must provide prompt and timely comments and/or objections to the Committee if they wish them to be considered. In order to ensure compliance with the foregoing, the Committee may make alternative suggestions to a proposed improvement, give approval thereto only subject to certain conditions, or deny approval thereof altogether. It is not the purpose of the Committee to substitute its judgment or preferences or that of a neighbor for that of the property owner but, instead, solely to perform the compliance function in a timely manner. Applications for approval of roofing or re-roofing will be approved unless not in compliance with fire prevention laws and regulations or inconsistent with roof colors and materials typical of the community.

4. ONLY RESIDENTIAL PURPOSES. No lot or plot in whole or in part shall be used for anything other than residential purposes. No trade, traffic or business of any kind, whether professional, commercial, industrial, mining or manufacturing, shall be engaged in or carried on upon said property or any part hereof; no hospital, sanatorium, church, private, school, riding academy, tavern or institution of similar or like character shall be conducted or maintained on said property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. This restriction does not preclude owners from working remotely.
5. LOT SIZE. No lots as presently platted shall be further subdivided without the approval of the committee.
6. SETBACKS. Dwelling houses, accessory buildings or other structures erected on said property shall have such setbacks from property lines of the building site on which they are located as follows:
 - (a) 40 feet from the front property lines;
 - (b) 20 feet from all other property lines,provided, however, that such setback lines are intended as guide lines and the Committee may permit variances therefrom in writing when in their opinion such variances may be desirable because of the terrain of the lot involved.
7. FENCES, WALLS. No fence, hedge or planted border which exceeds 3 feet in height shall be erected or maintained or permitted on any portion of any plot which is in front of the dwelling erected thereon. Any such fence shall be of an open work design. No fence erected on any other portion of the plot shall exceed 6 feet in height. The Committee may permit variances therefrom in writing when in their opinion such variances may be desirable because of the terrain of the lot involved. The design of all fences must be approved by the Architectural Committee.
8. FLOOR AREA. No dwelling house shall be erected, placed or maintained on said property or any portion thereof, which shall have a floor space, exclusive of a garage, basement, patio and covered porches of less than 2300 square feet for a one story dwelling or less than 2600 square feet for a dwelling of more than one story; provided, however, that the Committee may approve a dwelling of lesser ground floor area if in the opinion of said Committee the architectural design of said dwelling or the terrain of the building site warrants such approval and such dwelling otherwise complies with the factors set forth in Section 2 hereof.
9. DELETED.

10. EXCAVATIONS. No excavations for stone, gravel, or earth shall be made on any building site, except for walls, basements, or cellars of buildings, provided, however, that the declarant reserves the right at any time to excavate and grade on said tract or lots thereof then owned by declarant and to remove material from or deposit material on said lots in connection with the work of laying out and improving said tract.
11. MINING. Said property shall not, nor shall any part thereof, above a depth of 500 feet below the surface, be used for the purpose of exploring for, taking therefrom, or producing therefrom, gas, oil, or other hydrocarbon, rock, or mineral substances.
12. REMOVAL OF BUILDINGS. No building shall be moved from without to within or from within to without said lands or lots without approval of the Committee.
13. NO TEMPORARY DWELLINGS. No tents, shack, trailer, basement or garage shall be at any time used on any lot as a residence, temporarily or permanently, and no dwelling of a temporary character shall be permitted.
14. ANIMALS. No animals or birds of any sort shall be raised, kept or permitted upon said real property or any part thereof, except as provided in paragraph 14-A, except that dogs (not to exceed 2 in number), cats, and song-birds may be kept upon said real property, provided that they are not kept, bred, or raised thereon for commercial purpose or in unreasonable quantities and further provided that they are properly restrained, quiet, and do not become a public nuisance. Owners are required to pick up and properly dispose of feces from their dog left on the property of other OHDA homeowners and/or on OHDA owned property. Failure to bag and properly dispose of dog feces as required, after one warning, is subject to a fine of \$100 per instance. Notwithstanding the foregoing limitations, members may engage entities who employ goats or sheep (along with the regular guard dogs typically used by such entities) for the temporary purpose of clearing away weeds and brush.
- 14-A. Provided, further, that upon application to the Committee, the Committee may approve the keeping of horses or ponies upon residential lots or building sites containing 40,000 or more square feet (said horses or ponies to be owned by Orinda Downs residents and to be used only by the owners or guests). Any such application shall contain plans and specifications as may be required by the Committee for the outbuildings and structures to be used for such animals, together with a plot plan showing their location. In deciding upon such application, the Committee shall consider the size of the residential lot or lots involved, the proximity of proposed outbuildings and structures to neighboring residences, the number of horses or ponies or both to be kept on the premises, and may, if approval is granted, condition such approval upon such reasonable condition as it may deem necessary or desirable to impose.
15. LAUNDRY. No clothes, sheets, blankets or other articles shall be hung out to dry on any part of said property except in a yard enclosed by lattice, fence, wall or other enclosures approved by the Committee.

16. UTILITY YARD. No device or area devoted to or used for trash, rubbish, papers, etc. or garbage containers shall be located between the front or the side of any house or a projection of the line thereof, and the adjacent street. Further, such area or device shall be screened by means of adequate fence, approved by the Committee, so that it may not be seen from the street and shall be operated by the owner or occupant in such a manner that the operation is not noxious to the neighbors.
17. STORAGE. No occupant or owner of said property shall store or permit to be stored upon his property such quantities of manure, composting materials or decaying vegetation matter in such large quantities as to constitute an injury or a nuisance to the person or property of any other owner. No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence improvements. No used building materials, automobiles under repair, trailers, trucks, airplanes or construction equipment shall be stored on any plot or in the streets in the tract except in permanent buildings located on the plot in accordance with the provisions of this declaration.
18. COMPLETION OF CONSTRUCTION. All exterior construction and paint or stain finish shall be completed within twenty-four months from the start of construction, and no major construction or alteration shall be done except by contractors or builders properly licensed in the State of California.
19. TREES. Planting of juniper, redwood, or eucalyptus trees must be approved in advance by the Committee as well as any and all trees that, when fully grown will typically exceed 15 feet in height or will otherwise be likely to obstruct the light or views of neighboring property.
20. GROUND'S MAINTENANCE. Grass, weeds, and vegetation on each lot shall be mowed at regular intervals so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed. Before and after homes are built on any of said lots, the Association may, at its option, have the grass, weeds, brush and vegetation cut when and as often as the same is necessary in its judgment and have dead trees, shrubs, brush and plants removed from any lot, and the owner of such lot shall be obligated to reimburse the Association for the cost of such work, said cost to become a lien against the property on which the work is done or performed, provided however that a purchaser for value shall take title free and clear of any lien for such maintenance unless notice of claim of lien be of record in the office of the County Recorder at the time such purchaser's deed is recorded.

21. SIGNS. The Committee shall maintain continuing jurisdiction over the erection and maintenance of all signs. The Committee shall be deemed to have approved the usual and customary name and address signs and one "For Rent" and "For Sale" sign for each building site which shall not exceed 24 inches by 36 inches in dimension and such signs as may be erected by declarant (or by a person authorized by declarant) in connection with the subdivision or sale of all or any portion of the property aforesaid; provided, however, upon complaint by neighboring property owners, the Committee may withdraw its approval of said signs and may cause alteration in design or changes in location. No sign exceeding 24 X 36 inches shall be erected or maintained. Signs may not be placed in the park or other common grounds of the ODHA.
22. TRANSMITTING AND ANTENNAS. No transmission or radio or television signals shall be conducted or permitted on said property, and no outside aerials for the receiving of radio or television signals shall be located on any building site or lot without the approval of the Committee; provided, however, that the Association shall have the right to place upon said property antennas for receiving radio and television signals for the purpose of providing all lots or building sites within said property with radio and/or television signals.
- 22-A. This restriction shall also be so interpreted as to allow for the installation of coaxial cables or other electronic devices to permit television reception but is to prevent roof type or other unsightly antennae.
23. ARCHITECTURAL REVIEW COMMITTEE. The Architectural Review Committee appointed by the ODHA Board shall consist of not more than three members. Any changes in the membership of the Committee shall be by written instrument, acknowledged and recorded. The ODHA Board may replace any member of the Committee at any time, with or without cause, including for inactivity or willful failure or refusal to act. In the event of death or resignation of any member of said Committee, the remaining member or members shall have full authority to approve or disapprove all matters coming within the jurisdiction or prerogatives of said Committee as hereinabove set out, or to designate a representative with like authority. Any two members present shall constitute a quorum.
- 23-A. In the event the Committee fails to approve or disapprove any plans, specifications, color schemes, location, or other matter subject to the conditions and restrictions herein contained, within fifteen days after submission thereof, then such plans, specifications, or proposals shall be deemed conclusively approved by the Committee, provided the date of submission of said plans, specifications, or proposals and required proof of neighbor notices to the Committee is evidenced by written receipt from the Committee or its authorized representative.
24. SUMMARY ABATEMENT OF VIOLATIONS. Violation of any restriction, condition or covenant herein shall give the Association the right to enter upon property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement and removal shall not be deemed a trespass. The owner of the property where such violation exists shall reimburse the Association for the cost of such entry, abatement, or removal and such cost shall become a lien against said property.

25. LIEN OF HOMEOWNERS ASSOCIATION. Each lot within the subdivision is subject to the annual charge of assessment of the "Orinda Downs Homeowners Association," a nonprofit corporation, the amount of which shall be fixed from time to time by said Association and shall initially be fixed at the sum of Twelve Dollars (\$12.00) per lot per year and shall become a lien when due and payable and shall so continue until fully paid. Provided, however, that the lien herein created shall be, and is hereby, subordinated to the lien of any presently or subsequently recorded first deed of trust or mortgage on each of said lots.
26. RECREATIONAL EASEMENTS. The declarant reserves from each lot within the subdivision for the benefit of the owners of all the lots within the subdivision a ten foot easement a long one property line of each lot, excluding the front property line, for recreational purpose, including equestrian and pedestrian passage and other means of passage except, however, all modes of mechanically or electrically propelled passage. In the event that a lot as presently platted shall be further subdivided as provided in paragraph 5 above and said easement should, by reason of such re-subdivision, be located other than along the side line of the re-subdivided lot, then such easement shall, without further act, be relocated to the nearest side line created by such re-subdivision.
27. INVALID RESTRICTIONS. In the event any condition, restriction, or reservation herein contained be invalid or held invalid or void by any court of competent jurisdiction, such invalidity or void condition, reservation or restriction shall in no way affect any other condition, reservation or restriction.
28. WAIVER OF BREACH. No waiver of a breach of any of the foregoing conditions, reservations or restrictions shall be construed as a waiver of any succeeding breach of the same or any other condition, reservation or restriction.
29. TIME FOR COVENANTS. The covenants herein contained are to run with the land and shall be binding on all persons claiming under unless by vote of a majority of the then owners of the building sites covered by these covenants it is agreed to change said covenants in whole or in part.
30. BREACH NOT TO AFFECT MORTGAGE. No breach of any of the following conditions, covenants, and restrictions shall defect or affect the lien of any mortgage or deed of trust made in good faith and for a valuable consideration upon said property, or any lot or parcel thereof, but the rights and remedies herein granted until January 1, 2000, and thereafter so long as extended, upon any such breach may be enforced against the owner of any lot in said property, notwithstanding such mortgage or deed of trust, the lien of which shall continue unaffected, but the purchaser, at any trustee's sale or sale upon foreclosure, shall be bound by the covenants, conditions and restrictions herein.

31. NOTICE. The rights of the declarant or its successors or assigns in any to any building site arising by reason of a breach of these covenants, conditions and restrictions, shall not be exercised until, and no action shall be brought to enforce or establish such breach, unless, a Notice of such breach, setting forth the facts of the breach, has been given to the owner of said building site and such breach has been remedied within thirty (30) days after the giving of said Notice.
32. DELETED.
33. DELETED.
34. REMEDIES AND FINES FOR NON-COMPLIANCE. Except as provided below, when reasonable and feasible, the Association will first provide an Owner not in compliance with these CCRs an opportunity to achieve compliance in a timely manner. In the case of failure to seek and receive approval of the Architectural Review Committee as required by these CCR's, the Association can levy a fine of up to \$250 per violation and per month thereafter that the violation remains uncured and require any unauthorized work done without approval to be undone if not approved retroactively by the Association in its sole discretion [per Section 24]. The Association can levy a fine of \$250 plus \$250 per month thereafter for all other violations of these CCRs as well as an additional \$250 per month for uncured or recurring CCR violations. If violations remain uncured or recurring after one year, fines will increase to \$500 per month for uncured or recurring violations, in addition, the Association may summarily abate or remove the violation as is its right [per Section 24]. Examples without limitation of violations subject to fine are failure to comply with Rules 14, 17 and 19. The fines enumerated above are in addition to any other remedies available under these Rules and according to applicable law. Any deficiency fines, penalties of other financial obligation from a homeowner to the OHDA shall become a lien when due and payable and shall so continue until fully paid. Provided, however, that the lien herein created shall be, and is hereby, subordinated to the lien of any presently or subsequently recorded first deed of trust or mortgage.
- In the event of a dispute between a member and the Board, the meet and confer provisions set forth in Civil Code Section 5915 apply to a request to meet and confer about the dispute.
35. PROPERTY RENTAL. Property rental for less than 30 days, unless to family members or relatives, is prohibited.
36. ASSOCIATION PROPERTY DESTRUCTION. Owners are responsible for any and all injury, defacing, or damage caused by them or their family members or guests to HOA common property, including, without limit, the park landscaping, fencing and equipment and the HOA security cameras. The cost of repairing any such injury, defacing or damage shall be a lien on the property of the Owner.

37. DEBRIS: FIRE SAFETY. To aid in fire prevention, all property owners are required to and agree to promptly clear accumulated debris, excess dead leaves, excess dead weeds and other accumulations of flammable garden materials and comply with MOFD rules and regulations applicable to such debris, excess dead leaves, weeds and accumulations. (Not included here in this CCR 38 are trees, bushes or hedges.)
38. SAVINGS CLAUSE. If any provision of these CCR's is or becomes inconsistent with any federal, state or local statute, regulation, rule or ordinance - - including without limit the California Davis-Sterling Act - - that provision will not be applicable or enforceable. Other provisions of the CCR's not so affected shall nevertheless remain in force.
39. NO DISCRIMINATION. Neither the Association nor its members shall discriminate in the exercise of their rights and duties hereunder on account of race, nationality, gender, or sexual orientation/identity.
40. CONFLICT BETWEEN CCRs AND BY-LAWS REGARDING REMEDIES AND ENFORCEMENT. The CCR's control in the case of any conflict between the CCRs and the Association by-laws in regard to Remedies and Enforcement; the by-laws may be amended to conform to the CCRs to the extent necessary in this regard.

DATED: March 20, 1968 [Later amendments incorporated]
 August 6, 1975 – Amended.
 October 1, 2023 – This amendment

OWNER

ORINDA DOWNS HOMEOWNERS CORPORATION