



**Enforcement Policy and Schedule of Fines
Amended and Restated
Revised November 18, 2015**

OSMA Responsibility for Open Space and Enforcement Policy

The Fountaingrove II Open Space Maintenance Association (OSMA) encourages homeowners and their guests to enjoy the Open Space for passive recreational activity by pedestrian foot traffic. The Fountaingrove II Design Program for Open Space Management under which OSMA maintains Open Space specifies this passive recreational use to ensure activities do not significantly injure or scar vegetation, promote erosion, or interfere with wildlife use of the area. In an agreement entered into with the City of Santa Rosa in December 2012, the City granted a Conservation Preservation Easement to preserve the Rincon Ridge and Parker Hill Wildland Parks from any significant development, and the OSMA will maintain the Wildland Parks under the same guidelines as the Common Open Space. Hereinafter, any references in this document to Common Open Space shall include the Rincon Ridge and Parker Hill Wildland Parks.

The Fountaingrove II Open Space Maintenance Declaration authorizes the OSMA to enact rules and regulations pertaining to conduct required or prohibited by the Declaration. It further authorizes OSMA to enforce its rules and regulations by implementing a schedule of fines and penalties for offenses. This authority is granted by Section 4.6 of the Fountaingrove II Open Space Declaration recorded as an official record at the Office of Sonoma County as document number 1996 0056710 on June 26, 1996. Section 5.5 of the Declaration further authorizes OSMA to levy reimbursement assessments against owners to reimburse it for costs incurred as the result of any act or omission of owners or their occupants, family members, guests, or agents. The text of Section 5.5 titled Reimbursable Assessments is repeated in its entirety below:

“Reimbursement Assessments: The Board shall have the authority to levy reimbursement assessments against one (1) or more Lot Owners to reimburse the Association for any costs incurred by the Association as the result of any act or omission of any Owner or occupant of any Lot or their family members, guests or agents. The levy shall not include any portion that is paid by any insurer under a policy maintained by the Association. Payment of the deductible amount shall be the responsibility of the Owner. In addition to reimbursing the Association for costs necessary to repair any Association Property or other property that is maintained by the Association, the Association may seek reimbursement for any costs incurred by the Association, including attorneys' fees, to bring the Owner or occupant or the Owner's Lot into compliance with this Declaration, the Articles, Bylaws or rules. A reimbursement assessment may not be levied against any Lot until notice and hearing have been provided the Owner as described in the Bylaws; and under no circumstances may a reimbursement assessment for a monetary penalty imposed by the Association as a disciplinary measure for violation of the Declaration or Rules become a lien against the Owner's Lot that is enforceable by nonjudicial foreclosure proceedings under a power of sale. The foregoing restriction on enforcement is not applicable to late payment penalties for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees for delinquent assessments.”

Activities or uses that are not allowed or damage the Open Space will subject association members to fines, plus additional costs to reimburse OSMA for its out of pocket costs incurred to enforce its policies.

Schedule of Fines

The Schedule of Fines for violation by an Owner of the OSMA's Declaration or of the policies or guidelines adopted by the OSMA shall be as follows: Hereinafter, any references in the Schedule of Fines to "Open Space" will refer to and include the Rincon Ridge and Parker Hill Wildland Parks.

Dumping Trash/Refuse/Garden Debris or Placement of Garden/Building Materials in Open Space: \$200 fine. A \$25/day additional fine will be levied (starting 10 business after date of initial violation notice) until items are removed.

Planting in Open Space: \$200. A \$25/day additional fine will be levied (starting 10 business days after date of initial violation notice) until the plants are removed.

Irrigating the open space: \$200 fine. A \$25/day additional fine will be levied (starting 10 business days after date of initial violation notice) until the irrigation is removed.

Use of Motorized Vehicles in Open Space without Prior Board Approval: \$500 fine. All activity must cease and homeowner must complete form and submit deposit for Board approval.

Destructive Activities in Open Space (i.e. bicycles, trail making, digging or other activities that might create erosion problems etc.): \$200 fine. Further violations will result in an additional \$250 fine per incident.

Unleashed dogs and/or Leaving Dog Feces in Open Space or Wildland Parks: \$200 fine per incident.

Illegal/Disallowed Activities in Open Space (i.e. fireworks, campfires, smoking): \$500 fine.

Removal of Rocks/Boulders/Mulch and Other Items from Open Space: \$200 fine. Further violations will result in an additional \$250 fine per incident.

Drainage into Open Space Not Designed as Part of Original As-Built Design: \$200 fine. A \$25/day additional fine will be levied (starting 10 business days after date of initial violation notice) until the drainage problem is rectified.

Application of Herbicides and Pesticides in Open Space: \$200 fine. Further violations will result in an additional \$500 fine per incident. The OSMA occasionally applies herbicides or pesticides to specific areas of our landscape, but only employs contractors fully licensed for such herbicide/pesticide applications.

Removal, Alteration or Destruction of Trees/Plants in Open Space or Other General Destruction: \$500-\$10,000 fine at the Board's discretion based upon the extent of damage, whether the damage was accidental or intentional, and the cooperation of the responsible owner. Any costs associated with replacement of trees/plants will also be levied against the owner as a special assessment. Further, any fines and penalties imposed by the City of Santa Rosa for removal of heritage trees will also be levied against the homeowner. The following trees are native to Sonoma County and are considered heritage trees when their diameter or circumference is of a size specified in the ordinance: Oaks: Valley, Live, Black, Oregon/White, Canyon, Blue, Interior Live, Redwood, Bay, Madrone, Buckeye, Douglas fir, Red Alder, White Alder, Big Leaf Maple

Note: The above Schedule of Fines is in addition to all other rights and remedies of the OSMA including, without limitation, recovery of damages and reimbursement of costs." If the OSMA pays to have items in any of the above situations removed from Open Space by a third party, the cost of the removal and/or the cost of returning the open space to its original state shall be levied against the owner as a reimbursement assessment in addition to the OSMA's other rights and remedies. See above for OSMA's rights to recover other additional expenditure per Section 5.5 of the Open Space Declaration.