

CREST AT WAILUNA
HOUSE RULES
AND REGULATIONS

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<http://www.thecrest.no-ip.com/>

THE CREST AT WAILUNA

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THE CREST AT WAILUNA HOUSE RULES AND REGULATIONS

SECTION 1.0

INTRODUCTION

The following House Rules and Regulations are established and designed to ensure maximum enjoyment of all members of THE CREST AT WAILUNA and their guests, to protect all Residents from inconveniences and nuisances caused by improper use of the premises, and to enhance the livability and desirability of THE CREST AT WAILUNA.

All Residents and their guests shall be bound by these rules and by standards of reasonable conduct, whether covered by these Rules and Regulations or not. Acquisition of, and/or act of occupancy or presence at any Residence and/or Common Areas signifies that these Rules and Regulations are accepted and will be respected.

These Rules and Regulations shall be enforced by the Managing Agent under the direction of the Board of Directors of the Association. All complaints and reports of violations should be directed immediately to the Managing Agent in writing -

Residents are responsible for ensuring that all members of their families, as well as their respective guests, comply with these Rules and Regulations. Parents are responsible for acquainting their children with these Rules and Regulations. and for taking steps as may be necessary to assure that their children conduct themselves as herein set forth.

SECTION 2.0

DEFINITIONS

AGENT	Any real estate broker, agent, company or individual who is empowered to act on behalf of any individual Apartment Owner.
APARTMENT	A Residence at the project known as THE CREST AT WAILUNA.
ARCHITECTURAL COMMITTEE	A committee consisting of not less than three (3) members appointed by the Board of Directors, and who may be the members of the Board of Directors. This Committee serves the Association to promulgate from time to time, standards as to landscaping, building fences, walls or other structures that do not conflict with provisions of the Declaration or the By-Laws of the Association.
ASSOCIATION	Shall mean and refer to THE CREST AT WAILUNA ASSOCIATION OF APARTMENT OWNERS, its successors in interest and its assigns.
ASSOCIATION OF APARTMENT OWNERS	All of the Owners acting as a group in accordance with THE CREST AT WAILUNA Declaration By-Laws.
BOARD OF DIRECTORS	A duly elected Board constituted in accordance with THE CREST AT WAILUNA By-Laws representing The Association of Apartment Owners in all matters relating to the operation of the property which, in connection therewith can from time to time modify or amend these House Rules and Regulations
COMMON AREA	All real property owned by the Association for the common use and enjoyment of the Owners, including all easements for parking purposes, easements for access and utilities purposes, and easements for drainage purposes.
CONDO LOT	Together with the Residence, the flat portion of ground upon which the Residence sits.
DECLARATION	Declaration of Condominium Property Regime.
ENVIRONMENTAL PROTECTIVE CORRIDORS	An area depicted by shaded areas on the Condominium Map of certain Condo Lots as fully described in the By-Laws and as briefly described herein, in which nothing may be built or planted above certain specified heights. These areas are known as the EPC areas.
GUEST	A person or persons who are on the premises for a short period of time at the invitation of a Resident.

SECTION 2.0
DEFINITIONS – Continued

LESSOR	The Trustees of the Estate of Bernice Pauahi Bishop.
MANAGING AGENT	The duly selected management firm whose responsibilities and those of its agents and employees are outlined in the By-Laws.
RESIDENCE	The dwelling home which is designed and intended solely for use and occupancy as living quarters by a single family.
RESIDENT	Any person, including the Owner or their family, whose principal place of residence is located at THE CREST AT WAILUNA.

SECTION 3.0
GENERAL RULES

3.1 AIR CONDITIONERS, ETC.

Air conditioning units, wiring for electrical or telephone installations, machines or other equipment or appurtenances shall not be installed on the exterior of any Residence or building of the Project, or protrude through the walls, windows or roof thereof, without the written approval of the Board of Directors.

3.2 CLOTHES DRYING

Outside clotheslines or other outside clothes drying or airing facilities shall be permitted only when they are not visible from neighboring Condo lot(s).

3.3 DISTURBANCES

Residents and their guests shall not make or permit to be made any disturbing and/or excessive noises in the Residences or in the Common Areas. All Residents shall avoid making noises and using musical instruments, radios, televisions and amplifiers in such manner as may disturb other Residents and/or their guests, or do anything or permit anything to be done that will interfere with the rights, comforts and convenience of other Residents or their guests.

3.4 FIRES, BURNING

No Resident shall permit any exterior fires whatsoever upon common elements, except small barbecue and hibachi fires, and shall not permit any condition on or within their Condo Lot which creates a fire hazard. **Fireworks of any kind are prohibited.**

3.5 GARAGES

Garage doors **should be kept closed** when persons are not occupying garages. Garages will be used only for the parking of vehicles, boats, trailers, or truck campers and for workshops and storage of lawn and garden maintenance equipment, etc.

3.6 MAINTENANCE INSPECTION/RIGHT OF WAY

The Board of Directors, Managing Agent and its authorized agents has the right to enter any Condo lot and Common Area during reasonable hours as may be necessary for the operation of the Project or for making emergency repairs to prevent damage to any Residence or Common Area or to inspect, or repair any Common Area.

3.7 MAINTENANCE OF APARTMENTS AND CONDO LOTS

Residents shall, at their own expense and at all times, repair, and maintain, and keep their Residences and Condo lots, including the exterior and roof, internal installations therein such as water, electricity, gas, telephone, sewer, sanitation, lights and all other fixtures and accessories belonging to their Residences, and all foundations, walls, floors, roofs and

SECTION 3.0

GENERAL RULES - Continued

ceilings of their Residences, in good order and condition except as otherwise provided by law. The front yard of each Condo lot shall be planted, cultivated and maintained exclusively by the Association. **Residents shall be liable for all loss or damage caused by their failure to perform any such work diligently** and in the case of such failure to perform, shall reimburse to the Association on demand, all expenses incurred by the Association in performing any such work authorized by the Board of Directors or the Managing Agent.

3.8 MAINTENANCE OF INSURABILITY

Nothing shall be allowed, done or kept in any Residence or Common Area of the Project, which would create any fire hazard, or cause an increase in the ordinary premium rates or the cancellation or invalidation of any insurance thereon maintained by or for the Association.

3.9 MOTORIZED SCOOTERS

Motorized Go-Peds, Razors and/or any other motorized scooter (gas or electric powered) are prohibited at the Crest at Wailuna. Additionally, operation of any motorized vehicles (i.e. automobiles, motorcycles, mopeds, etc.) is prohibited unless the operator possesses a valid drivers license.

3.10. NOTICES

Complaints and requests shall be made in writing to the Managing Agent. Residents shall give immediate notice to the Managing Agent of any damage to the Common Areas and of any accident or injury occurrence in the Common Areas. The Owner shall reimburse the Association on demand all expenses incurred by it in repairing or replacing any uninsured loss or damage to the Common Areas, furniture, or equipment thereof caused by such Resident Owner or Resident's guest.

3.11 PARKING

Residents and their guests shall only park their vehicles in a garage or on a paved driveway. Boats, trailers, or truck campers will not be kept within or on any Condo lot except inside a garage. There shall be **no parking permitted on the private roads within THE CREST AT WAILUNA**. Guest parking should be accommodated on the Resident's driveway and overflow vehicles should be parked on Kaahumanu Street. Motorcycles are licensed motor vehicles and are subject to these provisions. Vehicles parked in another Resident's driveway may be towed away at the Resident's request. The Managing Agent and/or Security Officer has the authority (**without prior warning**) to have vehicles parked on private streets or other unauthorized common areas towed away at the vehicle owner's expense.

SECTION 3.0

GENERAL RULES – Continued

3.12 PETS

Livestock, poultry, (including roosters, chickens, ducks, geese, pigeons) or other animals shall not be allowed or kept in any part of the property. Dogs, cats and other household pets may be kept by Residents in their respective Residences and Condo lots, but shall not be kept, bred or used therein for any commercial purpose, nor allowed on the Common Areas except in transit, when carried or on a leash. Owners of pets, which cause a nuisance or an unreasonable disturbance to any other Resident of The Crest at Wailuna shall be fined in accordance with these Regulations. The pet owner will be responsible for any personal injury and/or property damage caused by the pet to any resident, guest, employee of the association, or to any member of the public. It is the responsibility of the pet owner to remove their pet's litter from their Condo lot and/or the Common Areas. Litter is to be wrapped securely and disposed of in the homeowner's trash. The Board of Directors has the authority to levy special assessments for damage done to Common Areas by pets and for removal of pet litter.

3.13 PRESERVATION OF DRAINAGE PATTERNS

Each Resident shall do what is necessary to preserve and maintain the drainage patterns of their Condo lot and adjoining Condo lot(s).

3.14 RENTAL OF RESIDENCES

Owners who rent their Residences assume responsibility for their agents and their tenants. Owners or their agents will notify the Managing Agent in writing within five (5) days of any change in tenancy and will ensure that new tenants receive a current copy of these THE CREST AT WAILUNA House Rules and Regulations.

3.15 RUGS ETC.

Rugs, garments or other objects shall not be hung from the windows or facades of any building or otherwise displayed in public view. Rugs or other objects shall not be dusted or cleaned by beating or sweeping on any walkways, lanais/patios, entries or other exterior part of the project.

3.16 SCREEN DOORS

Additional wooden or metal screen doors may be installed at the Resident's expense if they are of quality construction and are painted white.

3.17 GARAGE SALES

Garage Sales, Yard Sales and the like, are **NOT** allowed within The Crest at Wailuna.

SECTION 3.0

GENERAL RULES - Continued

3.18 SIGNS

No signs or banners of any nature, except those installed by the Developer, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon or within any residence or Condo lot except:

- a. Such signs as may be required by legal proceedings.
- b. Residence address number signs of a combined total face area of one square foot or less for each Residence. Said signs shall be uniform and conform to the existing signs.
- c. Not more than two "For Sale" and/or "For Rent" signs having a maximum face area of three square feet, such sign to refer only to the premises on which it is situated.
- d. "Open House" signs may be used from noon to 5:00 p.m. on Saturdays, Sundays, and Holidays
- e. Garage Sale/Party signs are prohibited within the Crest.

3.19 SOLAR SYSTEMS, ETC.

Solar energy systems or any other types of objects or equipment on any Residence visible from any point outside the Residence shall not be erected, placed or installed without the prior written approval of the Board of Directors and the Lessor.

3.20 STORAGE

Open storage of non-lanai furniture, major appliances and other unsightly items are prohibited. This includes storage of such items on Residence lanais/patios.

3.21 TELEVISION ANTENNAS, ETC.

The installation of television and/or any other antennas shall be covered by the Telecommunications Act of 1996, as amended from time to time, and shall be subject to the antenna installation policy or policies, if any, adopted and amended by the Board of Directors from time to time. (see Section 8 of these House Rules and Regulations)

3.22 USE OF THE PROJECT AND COMMON AREAS

- a. The Residences shall be occupied and used only for residential purposes and no Residence shall be used as a tenement or rooming house or for or in connection with the carrying on of any business, trade or profession whatsoever. The Residences shall not be rented for transient or hotel purposes, which are defined as: (1) rental for any period less than thirty (30) days; or (2) any rental in which the occupants of the Residences are provided customary hotel services such as room service for food and beverages, maid service, laundry and linen or bellboy service. The Residences in the Project or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any arrangement or program, including without limitation any so-called "vacation license", "travel club membership" or "time interval ownership" arrangement. The term "time-sharing" as used herein shall be deemed to include, but is not limited to any plan, program or arrangement under

which the right to use, occupy, own or possess an apartment or apartments in the Project rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, cotenancy agreement, partnership or otherwise. Except for the foregoing, the owners of the apartments shall have the absolute right to lease such apartments.

- b.** All Common Elements of the Project shall be used only for their respective purposes as designed. Skateboarding/roller-blading is prohibited on the private streets and side walks.
- c.** No Resident or Residence occupant shall plant or cultivate or landscape the Common Elements or the front portion of their Condo lot (as defined in Section 4.0 herein) or place, store or maintain within or upon any of the Common Elements any furniture, packages or objects of any kind, except City & County automated pick up trash bins
- d.** Residents are urged to familiarize themselves with the terms and conditions of Article VI of the By-laws entitled "Architectural Control", as these terms and conditions shall require the strict compliance of all Residents.
- e.** Residents are required to make no improvements or permanently place personal property in excess of two and one-half (2-1/2) feet in height above existing grade within five (5) feet of any Condo lot boundary line.
- f.** Plants, trees or other landscaping, or fenced, walls, or other improvements, or the placing of any item of personal property of any kind shall not be permitted to exist within an Environmental Protective Corridor (EPC) area that exceeds two and one-half (2-1/2) feet in height above existing grade.
- g.** Plants, hedges, trees or other landscaping shall not be permitted within the side yard or rear yard of any Condo lot that shall extend above the existing roofline of the dwelling unit as it appears in the initial Condominium Map.
- h.** Constructed improvements on Condo lots shall not increase the square footage of the footprint of the Residence by more than 450 square feet as it appears in the initial Condominium Map and no improvement shall be added above the roof line of the Residence as shown on the initial Condominium Map.
- i.** Residents shall keep their Residence and Condo lot neat, clean, and in a strictly sanitary condition and shall be required to observe and perform all laws, ordinances, rules and regulations made by governmental authority or the Association with respect to the use of the Project.

SECTION 3.0

GENERAL RULES – Continued

3.23 VEHICLES

- a. House trailers, mobile homes, permanent tents, or similar facilities or structures shall not be kept, placed or maintained upon or within any Condo lot at any time.
- b. Boats, trailers or trucks of more than one-ton capacity shall not be kept, placed or maintained upon or within any Condo lot.
- c. Trailers, truck campers, vehicles or boats shall not be constructed, or reconstructed or repaired upon or within any Condo lot in such a manner that such construction, reconstruction or repair is visible from neighboring properties, nor shall any vehicle not licensed and in good operating condition be maintained upon or within any Condo lot so as to be visible from any neighboring property, provided that nothing in this paragraph shall prevent a Resident from performing maintenance work or minor repairs on their own trailer, truck, camper, vehicle or boat inside their garage.
- d. Vehicle repairs in the Common Areas are prohibited. Residents are responsible for leakage of gas and oil in Common Areas. Spills and leakage will be cleaned up as soon as possible by the Resident to avoid damage to the asphalt covering. Vehicles must be maintained in operable condition or otherwise they will be removed from any Common Area.
- e. Vehicles may be washed in the Resident's garage or on the driveway area immediately in front of the Resident's garage. No other area may be used for vehicle washing.

3.24 WINDOW BARS OR GRILLWORK

Requests to install exterior bars or grille over windows will not be approved.

3.25 WINDOW TINTING

Requests to install non-reflective window tinting will generally be favorably considered, but must be approved in writing by the Board of Directors. Samples of tinting to be used must be submitted with the application to the Board of Directors.

SECTION 4.0
CONDO LOT USE DEFINED

4.1 CONDO LOT YARD AREAS

a. Front Yard Areas

All Condo lots have a front yard area. The front yard of all Condo lots is that yard area of the Condo lot located between the four-inch, black plastic *headerboard* installed by the Developer and the road that is a portion of the project. (Placement of the black plastic *headerboard* varies from Condo lot to Condo lot and such placement has been determined by each Residence's set back from the road).

b. Side Yard and Rear Yard Areas

Side yard areas and rear yard areas of all Condo lots shall be planted, cultivated, landscaped and maintained by Condo lot Residents. The maintenance of irrigation (sprinkler) systems installed on side and rear yards is the responsibility of the Condo lot Owner.

4.2 RESTRICTION ON USE OF CONDO LOTS

a. The front yard area of all Condo lots was planted, cultivated, and landscaped by the Developer. **The front yard area of all Condo lots shall be maintained exclusively by the Association for the exclusive benefit of the Resident owner.**

b. Environmental Protective Corridor (EPC) Restrictions. Many Condo lots within THE CREST AT WAILUNA have an area known as an **Environmental Protective Corridor (EPC)**. Prior to beginning any improvements to their Condo lot, it is imperative that no plants, trees or other landscaping or fences, or walls or other improvements shall be permitted to exist within an EPC area that would exceed two and one-half (2½) feet in height above existing grade.

SECTION 5.0

ARCHITECTURAL CONTROL

5.1 ARCHITECTURAL COMMITTEE

The Architectural Control Committee (ACC) appointed by the Board of Directors of the Association has the discretion to promulgate standards as to landscaping, building, fences, walls or other structures.

5.2 ARCHITECTURAL APPROVAL

Prior to the construction of buildings, exterior additions, fences, walls or other structures on their Condo lot, change or alteration to their Residence, including awnings, patio covers Residents must submit their written requests to the ACC and until the plans and materials and location of any such improvement shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors.

5.3 ENVIRONMENTAL PROTECTIVE CORRIDORS

It is the desire of the Association to protect certain environmental corridors within certain Condo lots. Consequently, nothing may be built with a height greater than two and one-half (2-1/2) feet above existing grade and nothing may be planted which grows to a height in excess of two and one-half (2-1/2) feet above existing grade. These areas are known as the “EPC” areas.

5.4 RESIDENT WAIVER BY MUTUAL CONSENT

Should two adjacent Resident owners so agree in writing, they may, with the prior written approval of the Board of Directors and with the concurrence of the Architectural Committee, construct a fence or wall between their Condo lots to a height not exceeding six (6) feet above the highest finished dwelling unit (Residence) slab. Should such a wall or fence be desired, then the Resident proposing such a wall must have their neighbor’s permission attached to and made a part of the drawing, which the Resident then submits, to the Board of

Directors for approval and prior to granted approval of the wall or fence in writing, the Board of Directors must assure itself that said structure will not adversely affect any EPC area in the project.

5.5 LANDSCAPING APPROVAL

The provisions of this Section 5.5 are subordinate to the provisions of Section 5.3; “Environmental Protective Corridors” set forth above.

SECTION 5.0

ARCHITECTURAL CONTROL - Continued

- a. Trees, bushes, shrubs or plants, which at maturity, and without clipping or pruning would exceed the height of the dwelling house (Residence) on a Condo lot, shall not be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to the Board of directors and in turn have been approved in writing by the Architectural Committee as to the preservation of the natural view and aesthetic beauty, which each Condo lot is, intended to enjoy.
- b. Plans submitted must show in detail the proposed elevations and locations of any proposed trees, bushes, shrubs or plants, including their location and elevation in relation to all other Condo lots subject to these restrictions.
- c. Approval of plans by the Board of Directors may be withheld if in the reasonable opinion of the Architectural Committee the view of any Condo lot would be impeded by the location of any tree, bush, shrub or plant. The Board shall have the right to require any Resident to remove, trim, and top or prune any tree, bush, shrub or plan that in the opinion of the Architectural Committee or the Board impedes or detracts from the view of any Condo lot.

5.6 LANAI STRUCTURES, SUN SHADES AND GAZEBOS, ETC

Lanais, sunshades, gazebos, etc., shall be designed to continue and/or complement architectural features of the Residence. The exterior appearance of the addition shall be built and finished to match the color and trim of the Residence. No such structure shall be built within an EPC area. Complete plans and specifications for any such structures must be submitted to the Board of Directors for the consideration of the Architectural Committee and the Resident must have written approval from the Board of Directors for the proposed structure prior to commencement of construction.

5.7 REPAINTING

All repainting of any exterior surfaces must have the **prior written approval** of the Board of Directors.

5.8 CONSENTS

The Architectural Committee, via the Board of Directors, is required to communicate their decisions to Residents' requests for approval or disapproval of their projects within sixty (60) days.

SECTION 6.0

ENFORCEMENT OF HOUSE RULES AND REGULATIONS

6.1 ENFORCEMENT

Compliance with these House Rules is required by Hawaii Law as well as the By-laws and the Declaration of The Crest At Wailuna condominium regime.

All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association in enforcing these House Rules against any owner shall be promptly paid on demand to the Association by the owner. If the enforcement is initiated against any owner's guest or an occupant of the owner's apartment, the owner and such guest or occupant (as the case may be) shall be jointly and severally liable to the Association for all costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association in connection with such enforcement.

6.2 AUTHORITY

The violation of any of these rules and regulations shall give the Board the right to:

- a. Enter the apartment in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner (whether or not caused by the owner or by any person for whose conduct the owner may be responsible), any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the board or the managing agent shall not thereby be deemed guilty in any manner of trespass; and/or
- b. Enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, and all costs thereof, including attorneys' fees, shall be borne by the defaulting owner (whether or not caused by the owner or by any person for whose conduct the owner may be responsible).
- c. In addition to any other rights and remedies available to the Association in enforcing the provisions of the Association's Declaration, By-laws, these House Rules, and Chapter 514A, Hawaii Revised Statutes, the Board shall have the power and authority to impose fines as set forth in Section 6.3 below.

6.3 VIOLATION NOTICES/FINES

In accordance with Article IV, Section (l) of the By-laws, the Board of Directors has adopted the following policy and procedures with respect to the imposition of fines.

Fines may be imposed by the Board of Directors, the Managing Agent, and/or the Resident Manager in accordance with the procedures and schedule of fines set forth herein.

The right of the Board to impose and/or authorize the imposition of fines shall be in addition to any other rights and remedies available to the Association.

SECTION 6.0

ENFORCEMENT OF HOUSE RULES AND REGULATIONS - Continued

A. Violations that do not pose a threat to persons or Property.

In the event of a violation of the Declaration, the By-laws, or these House Rules that does not pose a threat to persons or property, as determined by the Board, the following procedure will be followed.

1. First Violation. A notice of the violation will be delivered and/or mailed to the violator or to the apartment of the violator. If the violation is ongoing (e.g., an existing unauthorized modification), a demand for compliance within a reasonable period of time will be made. If the violation has ceased (e.g., a noise disturbance that has ceased), a demand will be made that the violator not engage in further violations of that nature.
2. Second Violation or Continued Violation. If a second violation of the same provision occurs or if the violation continues after the time period for compliance stated in the first notice has expired; a fine of \$25 may be imposed against the violator. A second notice of the violation will be delivered and/or mailed to the violator or to the apartment of the violator. If the violation is ongoing, a demand for compliance within a reasonable period of time will be made. If the second violation has ceased, a demand will be made that the violator not engage in further violations of that nature.
3. Third Violation or Continued Violation. If a third violation of the same provision occurs or if the violation continues after the time period for compliance stated in the second notice has expired; a fine of \$50 may be imposed against the violator. A third notice of the violation will be delivered and/or mailed to the violator or to the apartment of the violator. If the violation is ongoing, a demand for compliance within a reasonable period of time will be made. If the third violation has ceased, a demand will be made that the violator not engage in further violations of that nature. The matter may be referred to the Association's attorney for appropriate action after a third violation.
4. Fourth Violation or Continued Violation. If a fourth violation of the same provision occurs or if the violation continues after the time period for compliance stated in the third notice has expired, a fine of \$75 may be imposed against the violator and, if the matter has not yet been referred to the Association's attorney, it will be referred to the Association's attorney for appropriate action. If the violator is an occupant of an owner's apartment or a guest of an owner, a copy of any notice of violation may be delivered and/or mailed to both the violator (if known) and the owner of the apartment.

SECTION 6.0

ENFORCEMENT OF HOUSE RULES AND REGULATIONS - Continued

B. Violations That Pose A Threat to Persons or Property.

In the event of a violation of the Declaration, By-laws, or these House Rules that pose a threat to persons or property, as determined by the Board, the following procedure will be followed.

1. First Violation. A notice of the violation will be delivered and/or mailed to the violator or to the apartment of the violator and a fine of \$50 may be imposed against the violator. If the violation is ongoing, a demand for immediate compliance will be made. If the violation has ceased, a demand will be made that the violator not engage in further violations of that nature. The Board, in its discretion, may immediately refer the matter to the Associations attorney for appropriate action after the first violation.
2. Second Violation or Continued Violation. If a second violation of the same provision occurs or if the violation continues after a first notice has been given for immediate compliance, a fine of \$100 may be imposed against the violator. If the violation is ongoing, a demand for immediate compliance will be made. If the violation has ceased, a demand will be made that the violator not engage in further violations of that nature. If the matter has not yet been referred to the Association's attorney, it may be referred to the Association's attorney for appropriate action.
3. Third Violation or Continued Violation. If a third violation of the same provision occurs or if the violation continues after the second notice has been given for immediate compliance, a fine of \$150 may be imposed against the violator. If the violation is ongoing, a demand for immediate compliance will be made that the violator not engage in further violations of that nature. If the matter has not yet been referred to the Association's attorney, it will be referred to the Association's attorney for appropriate action. If the violator is an occupant of an owner's apartment or a guest of an owner, a copy of any notice of violation may be delivered and/or mailed to both the violator (if known) and the owner of the apartment.

SECTION 6.0

ENFORCEMENT OF HOUSE RULES AND REGULATIONS - Continued

6.4 APPEALS FROM FINES

Any person fined (“appellant”) may appeal the fine as follows,

- a. Notice of Appeal. By delivering to the Secretary or Managing Agent, not later than

twenty (20) days from the date of the fine, a written notice of his or her appeal and the reasons therefore. The delivery of a notice of appeal shall not halt the accrual of any ongoing fine imposed for the violation, which is the subject of the appeal.

- b. Time for Hearing Appeal. All appeals shall be heard at a meeting of the Board of Directors within ninety (90) days after the notice of appeal has been delivered to the Secretary or Managing Agent.
- c. Procedure. A statement of facts upon which the fine was based shall be delivered or mailed to the appellant at least ten (10) days before the meeting. At the meeting, the appellant and/or any witnesses on his/her behalf may present his/her defenses and supporting evidence, if any. The Board may ask other persons to attend and present testimony and the Board may consider all relevant testimony, evidence, and information related to the offense.
- d. Disposition of Appeal. The Board of Directors shall vote as to whether the fine and/or the amount thereof will be affirmed. If less than a majority of the directors participating in the meeting vote in the affirmative, the fine shall be rescinded. If a majority of the directors participating in the meeting vote to uphold the fine or any portion thereof, that sum shall be remitted by the appellant in full, within twenty (20) days of the date that the appellant is delivered or mailed written notice of the decision of the Board of Directors upon the appeal.

SECTION 7.0

PAYMENT OF MAINTENANCE FEES AND ASSESSMENTS

7.1 COMMON EXPENSE ASSESSMENTS

All owners shall pay to the Managing Agent in advance on the first day of each and every month:

- a.** The monthly installments of assessments against their respective Residence for common expenses of the Project;
- b.** All assessments against each Residence pertaining to a limited common element appurtenant to such Residence;
- c.** All assessments against such Residence by the WAILUNA RECREATION ASSOCIATION;
- d.** With respect to any lease of any Residence filed with the Board of Directors, a monthly sum determined by the Managing Agent to be sufficient to accumulate and pay when due all rent, taxes, assessments and other charges thereunder payable by the Lessee of such Residence.

7.2 ASSESSMENT OF LATE CHARGES

Should all the above stated monthly charges not be received by the Managing Agent on or before the 15th day after said charges are due, the Managing Agent may assess a late payment charge of \$15.00 to the appropriate Resident owner; and if said charges, including said late payment charge are not received within thirty (30) days after said monthly charges are due, an additional late charge in the amount of \$15.00 and interest at the rate of one percent (1%) per month calculated from such due date may be assessed. The amount of the late charge and interest rate may be adjusted by the Board of Directors

7.3 PRIORITY APPLICATION OF PAYMENTS

All payments received by the Managing Agent shall be applied to the Owners account in the following priority.

First: Attorney and legal fees

Second: Special assessments and fines

Third: Late fees and penalties

Fourth: Maintenance/common expense fees

SECTION 8.0

ANTENNA INSTALLATION POLICY

8.1 BACKGROUND

This antenna Installation Policy is adopted by the Board of Directors in conformance with the Over-The-Air Reception Devices (“OTARD”) RULE OF THE Federal Communications Commission (47 C.F.R. Part 1, Subpart S, §1,4000 et seq.) as amended [“FCC Rule”] governing installation of certain antennas described below broadcast satellite antennas, multi-point distribution system (“wireless cable”) antennas, and over-the-air broadcast antennas.

A. Existing Restrictive Covenants: The Association’s By-laws provide:

Article V, Section 4(c)

Except for any fences or walls and other improvements constructed by the Developer or constructed in accordance with the provisions of Sections 3, 4, or 6 of Article VI, and except for improvements constructed in accordance with subparagraph (h) of this paragraph, no improvements or movable personal property in excess of two and one-half (2 1/2) feet in height above existing grade shall be constructed or permitted to exist within five (5) feet of any Condo lot boundary line.

Article V, Section 4(f)

All Condo lots have an area known as an environmental protection corridor (EPC). No plants, trees or other landscaping or fences or walls or other improvements or other placing of any item of personal property of any kind shall be permitted to exist within an EPC area that exceed two and one-half (2 1/2) feet in height above existing grade.

Article V, Section 4(p)

No apartment owner or occupant shall without the prior written approval of the Board of Directors and Lessor, erect, place or maintain any television or other antennas, or solar energy systems or any other types of objects or equipment on any building visible from any point outside of his apartment.

Article VI, Section 2

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the project, nor shall any exterior addition to or change or alteration therein, including patio covers and antennas, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee and Lessor.

SECTION 8.0

ANTENNA INSTALLATION POLICY - Continued

Other provisions of the governing documents of the project and of Chapter 514A, Hawaii Revised Statutes, also restrict installations of antennas. These restrictions will continue to apply to all installations of antennas except to the extent modified by the FCC Rule.

B. Antenna Installations affected by the FCC Rule

The only antennas which are covered by the FCC Rule are:

1. Antennas (a) used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, and (b) one meter or less in diameter; or
2. Antennas (a) used to receive video programming services via multi-point distribution services, including multi-channel multi-point distribution services, instructional television fixed services, and local multi-point distribution services, or to receive or transmit fixed wireless signals other than via satellite, and (b) one meter or less in diameter or diagonal measurement; or
3. Antennas used to receive over-the-air television broadcast signals; or
4. A mast supporting an antenna described in paragraphs B (1), (2) or (3) above.

For purposes of this section, “fixed wireless signals” means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur (“HAM”) radio, Citizen’s Band (CB) radio, and Digital Audio Radio Service (DARS) signals. Thus, for example, any broadcast antennas (e.g., ham radio antennas) will continue to be subject to the existing restrictions in the governing documents and Chapter 514A, Hawaii Revised Statutes.

Furthermore, the FCC Rule only covers antennas installed “on property within the exclusive use or control of the antenna user where the user has direct or indirect ownership interest in the property.” Antennas installed on property that is not within the exclusive use or control of the antenna user or property in which the antenna user does not have a direct or indirect ownership interest are not covered by the FCC Rule.

SECTION 8.0

ANTENNA INSTALLATION POLICY – Continued

8.2 RESTRICTIONS

Antennas covered by the FCC Rule may be installed only in accordance with the following restrictions:

- a.** Any owner proposing to install an antenna shall provide the Board of Directors with written notice at least seven (7) days prior to installation. The notice shall include: (1) the type of antenna including dimensions and other specifications; (2) the name of the television service provider; (3) plans showing the location of installation and the manner in which the antenna will be installed and cables will be run into the apartment. The owner, prior to installation, shall also provide the Association with a copy of any applicable governmental permit.
- b.** Except as provided herein with respect to limited common elements, antennas shall not be installed, used, or maintained on or in the common elements of the project. No antenna or mast may encroach upon any common element; any limited common element not within the antenna user's exclusive use and control, any other owner's apartment, or the air space of another owner's apartment or of a limited common element that is not within the antenna user's exclusive use and control.
- c.** Except as otherwise provided herein and subject to the other provisions herein, antennas covered by the FCC Rule may be installed, used, and maintained on or in limited common elements (as defined in the Declaration) which are appurtenant to and adjacent to the owner's apartment, provided, however, that: (1) No antenna shall be installed, used, or maintained, on or in a limited common element that is not within the exclusive use or control of the antenna user; (2) No antenna shall be installed, used, or maintained, without the prior written consent of the Board, on or in any limited common element if the installation, use, or maintenance will involve a penetration through, alteration of, addition to, or modification of any limited common element that is not within the exclusive use or control of the antenna user and/or any common element (general or limited) that the Association is required to repair and/or maintain.
- d.** Subject to the provisions herein, antennas may be installed, used, and maintained in the apartments (as defined in the Declaration); provided, however, that no antenna shall be installed, used, or maintained in any apartment, without the prior written consent of the Board of Directors, if the installation, use or maintenance will involve a penetration through, alteration of, addition to, or modification of any limited common element that is not within the exclusive use or control of the antenna user and/or any common element (general or limited) that the Association is required or permitted to repair and/or maintain.

SECTION 8.0

ANTENNA INSTALLATION POLICY - Continued

- e. If acceptable quality signals can be received (or transmitted) by placing antennas and masts inside an apartment without causing an unreasonable increase in cost, then outdoor installation is prohibited. In any event, antennas and masts shall be placed in locations which are not visible from the exterior of the project, the fenced yard area adjoining the apartment (if any) or the apartment itself unless such placement would impair the installation, maintenance, or use of the antennas, in which case the following requirements shall apply:
- (1) Antennas and masts shall be placed in the least visually obtrusive location which would not preclude reception (or transmission) of an acceptable quality signal.
 - (2) Antennas or masts may not extend beyond a railing or fence unless no acceptable quality signal may otherwise be received (or transmitted).
 - (3) Antennas situated on the ground and visible from the street or from other apartments must be camouflaged by existing landscaping or fencing, if an acceptable quality signal may be received (or transmitted) from such placement.
 - (4) If no existing landscaping or screening exists, the Board of Directors may require antennas to be screened by new landscaping or screening of reasonable cost in such a manner as to blend in with the surrounding background surfaces or to minimize visibility of the antennas.
 - (5) The antennas and masts shall be painted to blend in with the surrounding background surfaces to the extent that this will not preclude reception (or transmittal) of an acceptable quality signal. No bare metal may be exposed.
 - (6) Exterior antenna wires shall be installed so as to be minimally visible.
 - (7) Antennas and masts shall be no larger nor installed higher than is absolutely necessary for reception of an acceptable quality signal.

As used in this Antenna Installation Policy:

- (a) *“Preclude reception of an acceptable quality signal” means that reception would be impossible or would be substantially degraded.*
- (b) *“Antenna” means and includes the antenna itself and any related or ancillary equipment or fixtures, including without limitation any cables, electrical wiring or connections, masts or mounting devices and hardware, as the context may require.*

SECTION 8.0

ANTENNA INSTALLATION POLICY – Continued

- f. Any installer of an antenna, other than the apartment owner, shall provide the Association with proof of such insurance as may be required by the Board from time to time. Masts must be installed by licensed contractors providing proof of such insurance as may be required by the Board from time to time.
- g. Owners shall not permit their antennas or masts to fall into disrepair or to become safety hazards. Owners shall be responsible for maintenance and repair of antennas and masts. Owners shall be responsible for repairing or replacement if the exterior surface of the antenna or mast deteriorates.
- h. Installation shall be performed in such a manner that it does not damage the common elements, limited common elements, apartments of other owners, or void any warranties of the Association or other owners.
- i. In the event that the Board of Directors reasonably determines that it needs to perform maintenance on the project, which will require removal of any antenna, the owner shall remove the antenna. The Board of Directors shall give the owner at least thirty (30) days prior written notice, where practical to do so, in order that the owner may coordinate with his/her service provider. Any removal or relocation of an antenna required under this provision shall be performed by the owner at his/her sole cost and expense, and the Association shall not be liable for loss or inconvenience to the owner arising from the removal or relocation.
- j. No more than one antenna of each type of service may be installed by an owner.
- k. Antenna installations shall not present any safety concerns and shall comply with all applicable statutes, ordinances, codes, rules, and regulations promulgated by any governmental authority, including, without limitation, the obtaining of any permits required by such authorities unless those statutes, ordinances, rules or regulations have been preempted by the FCC Rule. Installation of antennas or masts which present potential safety concerns require an application process. The FCC has recognized that safety concerns may be presented by masts higher than 12 feet. Safety concerns may also be presented by installation of any mast whose height exceeds the distance to neighboring property or public rights of way measured from the point of installation. Installation of such masts must be approved by the Board of Directors. Any application for these masts must include a detailed description of the structure and anchorage of the antenna and the mast, as well as an explanation of the necessity for a mast higher than 12 feet. If the installation will pose a safety hazard to Association residents or personnel, then the Board

SECTION 8.0

ANTENNA INSTALLATION POLICY – Continued

of directors may prohibit such installation. The notice of rejection shall specify the safety risks. Antennas and masts shall not be located in the vicinity of power lines or other electric light or power circuits and in no event shall antennas or masts be placed where they may come into contact with such power lines or circuits. In order to prevent electrical or fire damage, antennas shall be permanently and effectively grounded. Antennas are required to withstand winds of 80 mph.

- I. Pursuant to the FCC Rule, the Association reserves the right to petition the Federal Communications Commission for a waiver allowing the adoption of restrictions on antennas which would otherwise be preempted. In the event that such a waiver is granted, antenna installations which are not in compliance with such restrictions may be required to be brought into compliance within a reasonable time as determined by the Association, acting through its Board.

SECTION 9.0
EXCEPTION FOR HANDICAPPED PERSONS

9.1 BACKGROUND

None of the provisions herein are intended to be in contravention of the Fair Housing Amendments Act of 1988 or Chapter 515, Hawaii Revised Statutes (“Fair Housing Acts”). The Board will at all times comply with the provisions of said Fair Housing Acts when acting upon requests by handicapped persons to make reasonable modifications to their apartments and/or common elements of the Project if the proposed modifications are necessary to enable said handicapped persons to have full use and enjoyment of the project. The Board will also comply with the provisions of said Fair Housing Acts when acting upon requests by handicapped persons for exemptions from any of the project documents which would interfere with said handicapped persons’ equal opportunity to use and/or enjoy their apartments and/or the common elements of the Project.

ORIGINALLY ADOPTED ON MARCH 27, 2002

1ST AMENDMENT (ADDED SECTION 3.9) ADOPTED ON JANUARY 28, 2004

BY THE BOARD OF DIRECTORS OF THE ASSOCIATION OF APARTMENT OWNERS

THE CREST AT WAILUNA