

KAILUA VIEW ESTATES

RESOLUTION ADOPTING A FINING PROCEDURE

Adopted by the Board of Directors on APRIL 5, 2010

Amended by the Board of Directors on October 1, 2012

WHEREAS, Article V, Section 5.05 of the DCC&Rs, authorizes the Association's Board of Directors to adopt Association Rules, which rules may include the establishment of a system of fines and penalties enforceable as special assessments; and

IT IS HEREBY RESOLVED, that the Board adopts the following fining procedure and schedule of fines for violations of the Association's governing documents; and

IT IS FURTHER RESOLVED that the Board authorizes the Managing Agent to issue citations and impose fines in accordance with the fining procedure and schedule of fines adopted by the Board; and

IT IS FURTHER RESOLVED that the Board deems owners to be responsible for payment of any fines assessed against their units by reason of, and/or as a result of the actions of their tenants, guests, agents or employees; and

IT IS FURTHER RESOLVED that the Board hereby amends the Association Rules, if any, to add a new Article to incorporate the fining procedure and schedule of fines to read in its entirety as follows:

ARTICLE V FINING PROCEDURE

SECTION 1. AMOUNT OF FINES

- A. Pursuant to the grant of authority set forth in Article V, Section 5.05 of the DCC&Rs, the Board of Directors has adopted this fining procedure that gives the Association the right, in addition to any other rights or remedies, to issue citations and to levy fines against the responsible owner, whether or not the violator is the owner, tenant, guest, or employee of the owner's unit. Fines duly imposed by the Board or its agent but unpaid will constitute a lien on the unit that may be foreclosed and enforced as a special assessment.
- B. The Board of Directors has adopted the following schedule of fines for any violation of the Association's Governing Documents:
 - 1. First Notification - written warning of the Governing Documents infraction with a copy of said warning being sent to the owner and to resident if not the owner. This warning requires the offender to correct the infraction within 30 days of the warning except for matters involving health and/or safety or any other circumstance that requires immediate attention. (A.) Vehicles, trailers, boats, etc., which may be readily moved must be so moved within 24 hours of receipt of notification, or immediately thereafter a \$50 fine shall be imposed, and an additional \$10 may be added for each subsequent day the violation continues. (B.) Owners who rent or lease their property are responsible for providing a copy of this Resolution to tenant or lessee.
 - 2. Second Notification - If the Governing Documents infraction is not corrected within 30 days of the first warning, except as stated in 1. (A.) above, a written citation and a \$50.00 fine will be assessed against the owner. This citation and fine requires the offender to correct the

infraction within 30 days of this notification except for matters involving health and/or safety or any other circumstance that requires immediate attention.

3. Third Notification - If the Governing Documents infraction is still not corrected within 30 days of the second notification, a written citation and a \$100.00 fine will be assessed against the owner except for matters involving health and/or safety or any other circumstance that requires immediate attention. The Board also reserves the right to have the matter referred to the Association's counsel for appropriate action. Any legal fees and costs incurred by the Association after the matter has been referred to legal counsel shall be assessed against the owner.

4. Fourth Notice: If the Governing Documents infraction is still not corrected within 30 days of the second notification, a written citation and a \$200.00 fine will be assessed against the owner for this and each subsequent notification. The Board also reserves the right to have the matter referred to the Association's counsel for appropriate action. Any legal fees and costs incurred by the Association after the matter has been referred to legal counsel shall be assessed against the owner with 30 days to comply except for matters involving health and/or safety or any other circumstance that requires immediate attention.

Note: Fines are considered unpaid assessments and subject to any late fees and/or interest. A lien, if none exists, will be obtained when the fine amount reaches and/or exceeds \$500.00.

- C. Fines will be imposed for any second and subsequent violation of the same provision of the Governing Documents and for successive violations of the same offense in accordance with the schedule set forth in paragraph B above.
- D. After payment of fines a citation shall be removed from an owner's record but will be kept on file.
- E. The Managing Agent and its staff, or any duly authorized agent of the Managing Agent, as agent for the Board of Directors, is authorized to issue written citations and levy the fines.
- F. The Board of Directors shall have the power to enforce and collect such fines in the manner set forth in this section and in Article V, Section 5.05 of the C .C. & R.'s. Fines duly imposed by the Board or its agent but unpaid shall constitute a lien on the residence that may be foreclosed and enforced as a special assessment.

SECTION 2. CITATIONS

Each citation issued shall briefly describe the nature of the violation, date of the violation, property address, and name of parties involved, if known. The original citation shall be delivered to the property owner who shall be responsible for payment of any applicable fine.

SECTION 3. PAYMENT OF FINES AND LIABILITY

Property owners shall be liable for their own fines and for fines assessed against their tenants, guests, agents, or employees. Unless appealed as permitted below, a fine must be paid by the owner to the Association or its designee within thirty (30) days of the citation and assessment of the fine. If the property owner fails to pay or appeal a fine within thirty (30) days after the fine is assessed, the fine shall be deemed a special assessment against the property. The Association may file a lien against the property for the unpaid fines and may collect the unpaid fines under the procedures provided in the Governing Documents for collection of delinquent assessments, including the assessment of late fees for fines that remain unpaid, if permitted, unless the Board votes to suspend or cancel the fine.

SECTION 4. APPEAL OF FINES

Any fine to be levied as a Special Assessment may be appealed in accordance with the procedures set forth Article V, Section 5.05 of the DCC&Rs.

SECTION 5. MISCELLANEOUS

A. Upon providing notice to all owners, the Board reserves the right to establish a new schedule of fines at any time.

B. In the event of a violation of the Governing Documents that poses a threat to persons or property, as determined by the Board, the procedures set forth herein, may be suspended and referred directly to legal counsel for appropriate action.

C. REMEDY NOT EXCLUSIVE. In addition to the issuance of citations and imposition of fines, the Board of Directors is empowered to take all such other enforcement actions as permitted by the Governing Documents. This includes the retention of legal counsel, initiating legal action or arbitration proceedings, and/or any other form of remedy available to the Association by and through its Board. All remedies shall be cumulative and not be exclusive of the other.

IT IS FINALLY RESOLVED, that the Board shall give notice to all owners of the above-proposed fining procedure and schedule of fines to be added to the Association Rules, if any.

BOARD OF DIRECTORS KAILUA VIEW ESTATES

By Joseph Reginaldo
Its President