

Hawaiian Shores Community Association

15-2793 S. HONU STREET PAHOA, HAWAII 96778

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HSCA ADMINISTRATIVE PROCEDURES FOR CC&R FINING

The CC&R's for the Hawaiian Shores Community Association were modified in 2017 to permit the assessment of fines for violations of the CC&R's. The Board has stressed that fining should only be used when other less restrictive measures have failed to remedy the issue or concern. These less restrictive measures include verbal and written communication to the member in hopes of having the issue or concern voluntarily remedied, constructive communication with the member to ensure they understand the nature of the concern and that all of their questions are answered, and clear communication to the member that failure to voluntarily remedy the situation could result in the assessment of a fine. Timelines to address a situation that could carry a potential fine will vary based on the nature of the activity. Issues such as contractor noise etc. will need to be resolved quite quickly while others may require up to 30 days to resolve. Should the less restrictive measures fail to remedy the issue or concern the following steps for fine notification and collection will be followed.

These procedures require that the member be given a hearing before the Board or an Enforcement Committee prior to the imposition of a fine and also that 10 days advanced notification of the hearing and fine be given before the fine can be imposed. The Board of Directors therefore established an Enforcement Committee to meet this requirement and also approved the attached fine schedule.

STEP 1

Transmit to the member at least 10 days in advance of the fine hearing, in both regular and certified/return receipt mail, the notice of violation which includes the specifics of the violation, the fine amount, a copy of the fine schedule and the hearing date, location and time. This notice will also clearly state that this is the member's or their legal counsel's opportunity to speak to the committee concerning the violation. Provide a copy of the notice and any pertinent background information and previous communications to the Enforcement Committee.

STEP 2

Once a decision at the hearing is made, the member is again notified in both regular and certified/return receipt mail and this notification must occur within 15 days of the hearing. This notification will actually impose the fine and give the member 30 days to pay the fine.

STEP 3

Should the member fail to pay the fine within 30 days, the Board of Directors will be notified by the Enforcement Committee whether to flag the members account as "not in good standing" and will consider whether to submit the matter to Small Claims Court or Mediation, civil suit, or property lien.

*Any appeal by a Member must be made in writing within fifteen (15) days of receipt of the fine imposed and delivered to the Board of Directors and said appeal shall stay imposition of the fine. A hearing shall be held on said appeal within fifteen (15) days of the date the Board received the written request for an appeal. An appeal hearing shall be held before the Board of Directors in executive session. A Member shall have an opportunity to present witnesses, evidence and argument as to why the fine is inappropriate and why the association should not pursue legal options to collect the fine **such as through Small Claims Court**. Likewise, the Board of Directors shall be entitled to present witnesses, evidence, and argument as to why the fine is appropriate and why a fine should be collected. The Board of Directors shall provide the Member with a written decision on the appeal within ten (10) days of the dates of the hearing. In the event the Board of Directors upholds the decision to impose a fine, the Member shall have fifteen (15) days from receipt of the Board of Director's decision to pay the fine amount(s). In the event the fine is not paid in full within said fifteen (15) days, the Board of Directors may proceed to **Small Claims Court** to pursue collection.*

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HSCA SCHEDULE OF FINES FOR CC&R VIOLATIONS

CC&R Section	VIOLATION DESCRIPTION	AMOUNT OF FINE
#2, #3, #6, #11, #14	Failure to follow the design review process and instructions from the Design Review Committee required by the plan review including acquisition of a permit from Hawaii County, minimum and maximum size, height requirements, time to complete	\$500 Recurring monthly, for maximum of 12 months
#17, #18, #19, #20 & #21	Failure to use proper exterior lighting, new materials, proper painting and sealing of structures, concealing sub floor framing, driveway size and painting of metal roofs.	\$500
#7	Failure to notify the association in advance of land clearing, failure to file a lot maintenance plan or disposing of debris on adjacent properties.	\$500
#8	Failure to keep easements clear of obstructions of any kind and failure to maintain easements in a manner that prevents access to the water system.	\$100
#9	Failure to comply with single family use, failure to construct outbuildings & sheds that are congruent to the residence and failure of an owner of two adjacent lots to use the second lot only for outbuildings and sheds that have the proper size and setback.	\$100 Recurring monthly for a maximum of 12 months

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#10	Failure to provide off street parking for two vehicles as indicated or to remove a vehicle from the right of way or private property when instructed.	\$100 Plus applicable towing costs
#12	Failure to remove a temporary structure used during construction, after construction is complete.	\$100 Recurring monthly for a maximum of 12 months
#15	Using generators to provide power when power can be acquired from the utility company and when the power is on. Creating recurring noise that exceeds 65 db and is deemed to be a nuisance from any source other than permitted construction.	\$100
#16	Failure to provide a lua or porta-potty on a construction site.	\$100 Recurring monthly for a maximum of 10 months
#22	Placing signs in excess of one square foot and or five square feet for real estate signs, placing signs with non-compliant content, having political signs in place for more than 30 days or failing to remove political signs 3 days after the election.	\$100
#23 & #25	Failure to prevent a residence from falling into disrepair, becoming unsightly, or creating hazards. Failure to remove hazardous large trees, roots or other hazardous vegetation. Failure to keep all rubbish in proper containers and not visible from street view. Failure to remove, when instructed, inoperable vehicles, vehicle bodies and vehicle parts, failure to keep all inoperable vehicles from street view or under/within a carport or garage.	\$500 Recurring monthly for a maximum of 12 months

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#24	Failure to control any pet nuisance including vicious dogs, unusually high number of pets that create a nuisance and the use of property for commercial pet purposes. Harboring or raising livestock, poultry, or any other animal other than cats, dogs, and household pets.	\$100
#26	Failure to control loud music, continual dog barking and other loud animal noises. Noxious or offensive activity, offensive conduct, or any other nuisance that denigrates the quality of life in the neighborhood.	\$100

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