

LOKAHI MAKAI COMMUNITY ASSOCIATION

DESIGN REVIEW COMMITTEE GUIDELINES

[Amended March 8, 2022]

LOKAHI MAKAI HOMEOWNERS ASSOCIATION

DESIGN REVIEW COMMITTEE GUIDELINES

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1.0. LOKAHI MAKAI DESIGN PHILOSOPHY

- 1.1. Preservation of Architectural and Landscaping Standards. In a planned residential development, Owners have contractually agreed to surrender some of their freedom of expression in improving their properties, and have accepted an obligation to conform to architectural and landscaping standards established in accordance with the Declaration and these Rules and Guidelines, in order to preserve and maintain the character of the community in which they have chosen to reside, These standards are protected by the Declaration and these Design Guidelines for the ultimate benefit of all Owners.
- 1.2. Design and Construction Oversight. The Design Review Committee is responsible for enforcing architectural and construction standards with respect to either alterations or additions of all Improvements.
- 1.3. Responsibility. The decisions of the Design Review Committee made pursuant to these Design Guidelines involve areas where individual impressions, personal preferences and subjective opinions may lead individual Owners to disagree with some of the standards incorporated in this document. Nevertheless, the Design Review Committee is mindful of its responsibility to use its collective knowledge and experience to establish and maintain architectural and construction standards that will balance the needs of the community and those of individual Owners.
- 1.4 Indemnity. Owners will sign and indemnify, covenant not to sue and a waiver of claims as part of the application to the Design Review Committee.

2.0. PURPOSES OF GUIDELINES: ADOPTION AND AMENDMENT

- 2.1. Purposes. These Design Guidelines are intended to provide guidance to Owners and their builders regarding matters of particular concern in considering applications for approval of design and construction of new improvements on property within the Lokahi Makai community. They reflect the currently prevailing aesthetic views of the Design Review Committee as to the design and construction of new Improvements, Landscape and Hardscape.
- 2.2. Adoption and Amendment. These Design Guidelines have been adopted by the Design Review Committee. The Design Review Committee may, subject to final approval of the BOD, adopt amendments from time to time to reflect the evolution and further articulation of its aesthetic sentiments. Therefore, the extent to which these Design Guidelines may be amended over the years as the Lokahi Makai community matures is unlimited. Nevertheless, any such amendments will apply to future owners only and will

not require modifications to or removal of Improvements previously approved and completed.

3.0. DEFINITIONS

Except for the terms defined herein below, capitalized terms used in these Design Guidelines shall have the same meanings as are ascribed to such terms in the Declaration.

Air Conditioners: Both window or wall mounted units and split system units. The condenser and all associated piping for a split system shall be considered as part of the air conditioner.

Association: Lokahi Makai Community Association, a Hawaii nonprofit corporation, its successors or assigns as a homeowners association.

Board of Directors or Board: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Hawaii corporate law.

By-Laws: The By-Laws of the Association, as they may be amended.

Declarant: Sonny Ventures, LLC, a Hawaii limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" of the Declaration for the purpose of development and/or sale and which is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

Declaration: The Lokahi Makai Declaration of Covenants, Conditions and Restrictions dated May 20, 2004, filed in the Bureau of Conveyances of the State of Hawaii as Document No. 2004-13 3978, and as may be amended and lawfully enacted.

Design Guidelines: These Design Guidelines, put in place by the Developer may be amended by the Design Review Committee from time to time. The Developer maintains the power and right to overrule the Design Committee in those circumstances and for that period of time commensurate with the Developer's reserved rights in the Declaration.

Excavation: Any disturbance of the surface of the land (except temporarily for planting) that results in the removal of earth or rock for a depth of more than 18 inches.

Fill: Any addition of rock or earth materials use to replace excavated material to the surface of the land or earth or rock materials which increases the previous elevation of such surface by more than 18 inches.

Front of House: The side of the house fronting the street used for the address of the house. This street will also be known as the front street.

Garage: An enclosed or semi-enclosed area used for the purpose of parking vehicles and storing personal effects.

Hardscape: Inorganic, impervious building and paving materials placed on the ground to form a permanent driving or walking surface. Driveways, walkways, patios and pool decks are included.

Improvements: Residences, buildings and additions thereto, outbuildings, roads, driveways, parking areas, fences, retaining walls, stairs, decks, patio slabs, hedges, windbreaks, planted trash surrounds, poles, signs and any other structures of any type or kind.

Landscape: To adorn, improve, or arrange the grounds attractively by clearing, grading, contouring the land and planting grass, ground cover, flowers, shrubs, and/or trees. Approved landscape shall mean landscape that meets the guidelines set forth in Section 14.

Light Source Visibility: Visibility of the filament of the light source from neighboring property.

Lot: A Single-Family Residential Home or Lot as defined in the Declaration.

Member in Good Standing: A member of the Association that is current in paying all association dues including, but not limited to: maintenance fees, fines, legal fees and late fees. Additionally, the members' lot & home are in compliance with all rules and regulations of the Association and adheres to county codes.

Owner: One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. The Developer is considered an owner in the context of abiding by the Design Guidelines and is not bound by the Guidelines with respect to the residences that it is constructing for homebuyers.

Person: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

Plan: The development plan for the development of Lokahi Makai, as it may be amended from time to time.

Properties: The real property described on Exhibits "A" and "B" of the Declaration, together with such additional property as is subjected thereto.

Public Records: The Bureau of Conveyances of the State of Hawaii or the Office of the Assistant Registrar of the Land Court of the State of Hawaii, as appropriate.

Residence: A building or buildings used for residential purposes, together with any garage, carport or similar outbuilding appurtenant thereto, whether or not a part of the same structure.

Retaining Wall: Any structure constructed for the purpose of containing or supporting any embankment, fill or other earthen form.

Single-Family: As defined by the Housing Code of the County of Hawaii, provided, however, that the number of persons living on the premises shall not exceed the standards and requirements set forth in the Housing Code of the County of Hawaii.

Visible from Neighboring Property: With respect to any given object or activity, such object or activity is or would be in line of sight originating from any point six (6) feet above the adjoining property, excluding contiguous property owned by the owner of the property involved, but including common areas and streets, assuming that such adjoining property has an elevation equal to its actual elevation or the highest elevation of the ground surface of that portion of the property upon which such object or activity is located, whichever elevation is lower.

Visible from Street: With respect to any given object or activity, such object or activity is or would be visible from any point of a street fronting the Lot or adjacent Lot.

4.0. DESIGN PRINCIPLES

Lokahi Makai strives to create a residential community unified by aesthetic architectural themes. It will insist upon high-quality standards to establish lasting value for residences within the community and foster the customary Island living style.

5.0. REQUIRED APPROVAL: STANDARDS. RIGHT TO WITHHOLD, MEANING AND EFFECT

5.1. Required Approval. No new Improvements shall be placed, erected, or installed upon any Lot, and no staking, clearing, excavation, grading, fill work or other site work, planting or removal of substantial landscaping materials, shall take place prior to the final written approval of the Design Review Committee. Any Improvements placed or made in violation of these Design Guidelines shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, the Owner of the nonconforming Improvements shall, at their own cost and expense, remove such

Improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment.

- 5.2. Standards of Approval: Right to Withhold Approval. The Design Review Committee shall use reasonable judgment in approving or disapproving any item submitted to the Design Review Committee for its approval or consent under these Design Guidelines. In reviewing each request for design and construction approval, the Design Review Committee may consider the quality of workmanship and the design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other things. Decisions of the Design Review Committee may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as Design Review Committee members change over time. An Owner has the right to appeal the decision of the Design Review Committee in writing to the Full Boards of Directors. The Design Review Committee shall have the right to withhold its approval or consent, without liability to the person requesting such approval or to any other person, if:

5.2.1. The item, materials or documentation submitted to the Design Review Committee does not conform to or satisfy the provisions or requirements set forth in these Design Guidelines, the Declaration, any Supplemental Declaration or other Public Record applicable to the Lot;

5.2.2. The proposed Improvements or work does not conform to or satisfy the provisions or requirements set forth in these Design Guidelines, the Declaration, any Supplemental Declaration or other Public Record applicable to the Lot; or

5.2.3. The proposed Improvements or work is not compatible with, homes, improvements and landscaping now or then existing in Lokahi Makai.

- 5.3. Approvals Deemed Conditional. Unless otherwise specified in writing by the Design Review Committee, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved

with respect to the same Lot, unless approval to modify any application has been obtained. Approval is also conditioned upon County Building Code and Applicable Building Permits and any other County requirements. In the event that any Person fails to diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

- 5.4. No Representations, Warranties or Agreements. No approval by the Design Review Committee of any item submitted to the Design Review Committee shall in any manner constitute a representation, warranty or agreement by the Design Review Committee, the Declarant, the Board, the Association, and their respective members, duly authorized representatives and attorneys, that such item (1) has been prepared free of defects or is of good workmanship or design, or will result in Improvements that are readily marketable or free of design or construction defects, (2) complies with Applicable Laws (including building code requirements) or (3) will result in the approval of the same by any Government Entity or other person.
- 5.5. Limitation of Liability. Review and approval of any application pursuant to these Design Guidelines is made on the basis of aesthetic considerations only, and the Design Review Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee (including, without limitation, the Design Review Committee), nor their respective members, duly authorized representatives shall be held liable for any injury, damages, or loss or prejudice suffered or claimed on account of (i) a mistake in judgment or negligence, (ii) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, or other request or item, whether or not defective, (iii) the manner or quality of approved construction of any Improvement or the performance of any work, whether or not such construction or performance complies with these Design Guidelines, the Declaration, any Supplemental Declaration or other Recorded Instrument or the terms of any approval of the Design Review Committee, (iv) the manner, appearance, style or quality pertaining to the development, improvement, landscaping, maintenance or operation of any Improvements of a Lot in Lokahi Makai, (v) the erroneous execution

of any estoppel certificate, (vi) the failure of any plan, drawing, specification or other item approved by the Design Review Committee to comply with Applicable Laws or (vii) any other matter, decision, act or omission; provided that such persons described above shall not have acted in bad faith. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in the Declaration.

- 5.6. No Waiver of Right to Withhold Approval. The Design Review Committee's approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with the construction of Improvements or with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters submitted for any subsequent Improvement constructed upon the Lot or upon any other Owner's Lot, it being understood that the Design Review Committee's requirements for approval may be different for different circumstances or times.
- 5.7. Applicable Laws. Approval of plans does not modify or eliminate the Owner's obligation to comply with all existing laws, ordinances, rules and regulations, and as may be amended, or hereafter made by any governmental authorities or with such terms and conditions required under the Declaration, or any deed, lease, or mortgage. In case of conflict, the more stringent requirement shall apply.

6.0. VARIANCES

- 6.1. Authority. The Design Review Committee may authorize variances from compliance with any of these Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations so require, but only when the Design Review Committee unanimously finds that but for the unique circumstances provided for above, the Applicant has met the intent of the Design Review Guidelines.
- 6.2. Grounds. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Design Review Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

7.0. APPLICATION AND CONSULTANTS FEES

- 7.1. Initial Application Fee. The Design Review Committee shall have the right to charge the Owner a reasonable processing fee for its review of any application. The Design Review Fee shall be established each calendar year by the Board of Directors. For new construction the Design Fee is \$150.00.
- 7.2. Consultants Fees. The Design Review Committee may employ the services of an architect, landscape architect, engineer, land planner, attorney, and/or any other consultant to render professional advice, and may charge the fees incurred to the Owner (in addition to the basic application fee); provided that before any such consultant review is commenced, an estimate of such fees shall be determined and approved by the Owner in writing. The consultant may be a member of the Design Review Committee. The basic application fee and estimated consultants fees shall be payable by Owner prior to the time that the Design Review Committee review the Owner's application.
- 7.3. Re-submittals. In the event the Owner withdraws its application and subsequently resubmits it to the Design Review Committee for approval, the Owner shall pay an additional fifty percent (50%) for the re-submittal. This fee will also apply for any submittal involving changes substantial enough to be considered a new design.

8.0. PROCEDURES FOR APPROVAL OF PLANS

- 8.1. Conceptual Meeting. Prior to preparing preliminary or conceptual plans or design schematics for any Lot, the Owner and the Owner's engineer (if any) and architect shall meet with the Design Review Committee or one of its members or any two (2) duly authorized representatives to discuss and review the Owner's concepts and plans for development and the Design Review Committee's requirements for and standards of review and approval.
- 8.2. Submittals. The Design Review Committee may reject all design plans submitted by any member who is not in good standing with the Association. The Owner shall submit to the Design Review Committee, and obtain its approval of, plans and other items listed in this Section 8.0 in connection with design and construction of new Improvements. Submittal forms (attached to these rules) are to be submitted with all plans. All building plans and specifications for the construction of Improvements must be prepared or reviewed and signed by an architect licensed to practice in Hawaii. All landscaping plans must

be prepared by a landscape architect licensed in the State of Hawaii. The Design Review Committee may decide, but is not obligated to reduce the requirement of reviewable materials for what the Committee deems small projects.

8.3. Step 1 Approval. The Owner shall initially submit the following items for approval by the Design Review Committee:

8.3.1 Site plan showing existing site contour lines and any existing utilities and Improvements;

8.3.2 Site plan (scale: 1" = 20') showing:

- a. Proposed changes in contour lines;
- b. Proposed location of buildings, number of stories, roof overhangs and setbacks;
- c. Proposed location, materials, heights, design and terracing of all fences and Walls;
- d. Proposed changes in finished grades;
- e. Proposed erosion control and drainage plan;
- f. Single-line schematic layout for proposed changes in sewer, water, electricity, communication and drainage; and

8.3.3 Schematic floor plans (minimum 1/4" = 1') and elevations;

8.3.4 Drawings showing all elevations of all Improvements;

8.3.5 Description of any proposed changes in exterior materials and color (with samples mounted on 8-1/2" x 11" cards);

8.3.6 Description of provisions for landscaping and planting trees and vegetation and for stabilizing slopes during and after construction;

8.3.7 The proposed construction schedule.

8.4. Step II Approval. After receiving (or having received) Step II Approval from the Design Review Committee, the Owner shall submit to the Design Review Committee final plans and specifications (and sample materials specified by the Design Review Committee) for the proposed Improvements, including landscaping and exterior designs. The required deposit amount shall be submitted to the Association at this time. Deposit guidelines are as follows:

<u>Improvement Cost</u>	<u>Deposit Amount</u>
\$1,000 or less	\$250
\$1,001 to \$9,999	\$500
\$10,000 or more	\$1,000

The deposit will be held by the Association until all work is complete and the Association has reviewed the completed project. Any repairs to the common area (landscape damage, irrigation repairs, etc.) will be deducted from the deposit amount.

- 8.5. Subsequent Changes Any amendment, variation, change, omission from or addition to any item previously approved by the Design Review Committee (other than amendments, variations, changes and additions which are immaterial or insubstantial) shall require the Design Review Committee's prior approval.

9.0. MANNER AND TIME OF APPROVAL

The approval or disapproval of the Design Review Committee of any application shall be given in writing within forty five (45) days after submission of said application and after the Owner's compliance with the requirements set forth in the Design Guidelines. If the Design Review Committee disapproves any such application or submittal, it shall, within said forty five (45) day period, send notice of its disapproval to the person applying for said approval at the address set forth in the application. If notice of disapproval is not so sent within said forty five (45) day period, the Person or Persons applying for said approval shall notify the Design Review Committee in writing of its failure to timely approve or disapprove, and if the Design Review Committee thereafter fails to send notice of disapproval within fifteen (15) days after receipt of such written notice, the application submitted shall be deemed to have been approved by the Design Review Committee.

10.0 COMMENCEMENT AND COMPLETION; REMEDIES FOR FAILURE TO COMPLY

- 10.1. Commencement of Construction: Extension. All approvals of the Design Review Committee may be revoked by the Design Review Committee if the Owner has not commenced the construction of the Improvement or work covered by the Design Review Committee's approval within six (6) months from the date of the Committee's approval, and if so revoked, the Owner shall be required to comply with such further requirements as may be imposed by the Design Review Committee (including the submission of revised plans, drawings and specifications), and the Design Review Committee shall not be bound by any approval previously given by the Design Review Committee. The Owner shall be deemed to have "commenced the constructions of the Improvement" for purposes of this Article VII when the "visible commencement of operations" (as that term is defined in Section 507-41, HRS) for the construction of the Improvements shall have occurred on the Owner's Lot. The Design

Review Committee upon receiving a written request from the applicant or owner, at least forty-five (45) days prior to the expiration period, and for good cause, may extend the six (6) month period for periods not to exceed an additional six (6) month period beginning on the original expiration date

- 10.2. Cancellation of Approval for Lack of Progress; Completion of Work. All work approved by the Design Review Committee shall be prosecuted to completion diligently and in good faith. If at any time, more than sixty (60) days shall have passed without substantial and significant progress toward completing any project for which the Design Review Committee has granted its approval, the Design Review Committee may declare its approval null and void, and the Owner must resubmit a new application for Design Review Committee approval. The Design Review Committee shall not be bound by any previous decision when reconsidering plans and specifications, which may come before the Design Review Committee as a result of an Owner exceeding the time requirements for completion of any project. Promptly upon the completion of any work for which the approval of the Design Review Committee is required, the Owner doing such work or for whom such work was done shall give written notice thereof to the Design Review Committee, and within thirty (30) days thereafter the Design Review Committee or its duly authorized representative may inspect such work to determine whether it was done in compliance with the Design Review Committee's approval and shall notify the Owner of any non-compliance within such thirty (30) day period, whereupon the Owner shall remedy such noncompliance within a period of fifteen (15) days after notice of such non-compliance is received by the Owner, or if such noncompliance reasonably cannot be remedied within said 15-day period, the Owner shall begin to remedy such non-compliance with said 15-day period and in good faith and with due diligence shall remedy such compliance as soon as reasonably possible.
- 10.3. Exclusion for Failure to Comply; Other Remedies. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms of the Design Review Committee's approval and the construction of the Improvements approved may be excluded by the Board from the Property, subject to the notice and hearing procedures contained in the By-Laws. In such event, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this Section. In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Design Review Committee.

- 10.4. Owner's Certificate. Within thirty (30) days after the work is substantially completed, the Owner shall certify that the completed work substantially complies with the Design Review Committee-approved application (including the materials, documents and items supporting said application) and with the plans and specifications approved by the County of Hawaii in connection with the Improvements constructed, the latter being the "JOB SITE" set of drawings, specifications and other calculations, as stamped by the County of Hawaii

11.0. ARCHITECTURAL STYLES

The overall theme for Lokahi Makai will blend traditional Hawaiian Plantation with Contemporary Hawaiian expressions of architectural design.

12.0. DESIGN RULES

- 12.1. Setbacks. Site Distance. Maximum Building Height Lot Coverage Ratio and Visibility. Setbacks, sight distances, maximum building heights and lot coverage ratios shall be in accordance with requirements established by the County of Hawaii. Corner Lots shall follow front setbacks for the side on which the garage occurs. The remaining corner frontage shall conform to side yard setbacks. Improvements shall be located so as not to cause unreasonable visual interference with the view planes of surrounding Lots. The Design Review Committee will consider visual impact of all proposals upon neighboring properties and streets. The minimum house size shall be 1,100 square feet of livable space.
- 12.2. Garages. All garages must be within the building envelope. Strongly applied and detailed patterns moldings and bright colors on garage doors are not acceptable. Garage doors should be only one color to soften the impact of this feature. Carports are not permitted. All garages shall be a minimum of two cars in size and be attached to the home, detached garages are not permitted. No RV parking is permitted on Owner's property; RV parking on the street shall be permitted as described in the subdivision rules (PUD).
- 12.3. Roof Profiles. All roof details should portray a low profile. Principal roof forms should be hip and gable, although the latter should be minimized on the front elevation. Mansard and gambrel roof forms shall not be permitted. Building height not to exceed eighteen (18) feet as measured from the lowest foundation elevation point to highest point of the roof structure.

- 12.4. Roof Materials. Acceptable roof materials are textured asphalt or fiberglass shingles. Architectural standing rib metal non-reflective roofing is also acceptable. Corrugated metal roofing, flat roofs, composition roll roofing, un-textured asphalt shingles, and built-up roofing on pitched roofs are not acceptable nor are metal or plastic awnings. Roofs shall be only those colors in the original design or subsequently approved by the Design Review Committee.
- 12.5. Roof Vents and Chimneys. The adverse appearance of roof vents shall be minimized to the extent possible by installation below ridge lines and in those portions of the roof not facing a street. Fireplace chimneys shall comply with all governmental codes and regulations and shall be approved on a case-by-case basis. Reflective materials used in vents and chimneys shall be subdued with flat, non-reflective black paint.
- 12.6. Gutters and Down Spouts. Gutters and down spouts will be approved if they are designed to conform to the drainage plans shown in the original construction drawings or with later drainage plans approved by the Design Review Committee. Gutters and down spouts must be non-reflective and match the surfaces to which they are attached, provided that copper gutters and down spouts need not be painted. Down spouts must be located so as to discharge the runoff entirely within the Owner's Lot. The proposed location of the down spouts should be clearly indicated on the site plan.
- 12.7. Antennas and Satellite Dishes. To the maximum extent permitted by law, no radio, television or other antennas of any kind or nature, or device for the reception or transmission of radio, microwave or other similar signals, shall be placed or maintained upon any Lot unless they are mounted on the ground in the rear yard or on the fascia of the home not facing the street, or as may be permitted by the Association Rules. Declarant and/or the Association may erect an aerial or other apparatus for a master antenna or cable system, should any such master system or systems be utilized by Declarant or the Association and require any such exterior apparatus. [The following notice is hereby given of the FCC OTARD Rule: In Chapter 47 of the Code of Federal Regulations at Section 1.4000, the Federal Communications Commission issued an Over-the-Air Reception Devices Rule which prohibits certain restrictions that unreasonably delay or prevent installation, maintenance or use of certain devices, or unreasonably increase the cost of installation, maintenance or use of certain devices, or preclude reception of an acceptable quality signal by such devices.]

- 12.8. Utilities Service. All residential utility, electric, telephone and TV cable service lines shall be underground.
- 12.9. Sanitary and Water Piping. All piping shall be concealed.
- 12.10. Exterior Painting. Exterior paint colors may not vary from the approved color pallet for Lokahi Makai. Exterior paint colors need to be earth tone hues in harmony with existing homes. Paint reflective values pertain to base, trim and accent trim. Refer to Table 4 for approved exterior paint colors.
- 12.11. Reflective Finishes and Window Tinting. No reflective finishes shall be used on exterior surfaces (other than glass and the surfaces of hardware fixtures) where such exterior surface is visible from neighboring property. Highly reflective window tinting that creates glare on adjacent properties or streets is not to be construed as a "glass" exception to the reflective finish restriction. Such window tinting treatments are specifically prohibited. All window-tinting installations are subject to review. While Owners are generally concerned with the levels of light and heat transmission, the Design Review Committee focuses on light and heat reflectance. Applications for window tinting should be accompanied by a manufacturer's specification sheet and a minimum 3" x 5" sample. Metallic finishes generally will not be approved.
- 12.12. Doors and Windows. Front doors should be simply detailed. Doors made of wood with raised panels or a combination of materials such as wood and glass are encouraged. Simple, elegant accents such as copper, brass or iron doors are also permitted. A front door should not be an overly dominant feature of the home, but rather should be integrated with the rest of the home. The Design Review Committee may approve wooden screen doors provided they are finished in such a way as to match the siding or trim and are kept in good repair. Aluminum and steel screen doors will be reviewed closely and doors with exposed reflective material shall not be approved. Windows shall be white in color and constructed of vinyl or aluminum.
- 12.13. Air Conditioners. Air conditioners that are visible from the street or adjacent property shall be screened from public view. No bare metal or conspicuous filter elements may be exposed. If the design of the installed air conditioner is such that filter elements may not be painted, the Owner is responsible for providing a design acceptable to the Design Review Committee to screen or otherwise enclose the air conditioner in such a

manner that it may be painted to blend with the mounting surface. Air conditioning units shall be maintained at all times in a clean and attractive condition and shall not be permitted to become unsightly. The Owner is responsible for ensuring quiet operation of all installed air conditioning units. If the air conditioning unit operates at an excessively noisy level that is a disturbance to neighbors, the Owner may be required to remove the unit. Only new air conditioning units shall be installed, provided that the installation of used units may be permitted with the prior inspection and written approval of the Design Review Committee or its duly authorized representative.

12.14. Drop Blinds. Drop blinds for lanais and balconies may be used provided they (i) are neutral or earth tone colors, (ii) are maintained in good condition and (iii) are rolled and/or adequately tied down during periods of high winds to avoid slapping and banging.

12.15. Fences and Walls. All fences shall be white vinyl not to exceed 6 feet in height. All walls must be lava or blue rock not to exceed 6 feet in height.

12.15.1. Front Yard Fences and Walls. No fencing shall be permitted within the front yard of the Lot. Front view fencing shall be installed in line with the front of the house and shall extend from the side of the home to the property line. If a front facing lava rock wall is installed, a black powder coated gate is allowed. Front retaining walls are permitted on a case-by-case basis and must be built of lava or blue rock. A Project Application must be submitted.

12.15.2. Side Yard Fences and Walls. Side yards are encouraged to be used as outdoor living areas. To increase the visual size of the side yard, property line fences and walls shall only be utilized where required for privacy or security. Side yard fences and walls shall be limited to 6 feet in height from the rear property line to the front face of the building, so if desired, there can be privacy between neighbors' side and rear homes.

12.15.3. Rear Yard Fences and Walls. Rear yard property line fences and walls are permitted to a height of 6 feet.

12.15.4. Combination Fences and Walls. Where fences are used in combination with walls, the 6 feet maximum height shall apply to the wall and fence combination. When an Owner elects to construct a retaining wall and a separate fence, the fence shall be constructed at least 3 feet from the retaining wall. The area between the fence and wall shall be maintained with approved landscape material.

12.15.5. Retaining Walls at Adjacent Properties. Owners with sloping grades within their Lots may make these areas usable by installing retaining walls, provided that the walls do not exceed the allowable height for the location of the wall. Owners on an upper adjoining parcel may also construct fences at their property lines. Where the grade differential exceeds the allowable height of wall, terracing of retaining walls may be required to stay within the maximum allowable wall height. The terraced area must be at least 4 feet wide and maintained with approved landscape material. Owners must obtain approvals of the adjacent property Owners if construction activities will cross the property lines.

12.15.6. Side-by-Side Fences or Walls. Walls or fences will be evaluated on a case-by-case basis if they are to be constructed parallel with adjacent walls or fences. Owners deciding to build separate property line walls/fences instead of developing a common property line wall/fence shall agree to jointly maintain the area between any two walls/fences. [Suggest putting a minimum space between fences for ease of maintenance]

12.15.7. Party Walls and Fences - Joint Ownership and Maintenance Agreement. Whenever two adjacent Owners desire to jointly construct a fence or a wall along and over the property line, it is required that a joint ownership and maintenance agreement incorporating the provisions of the Declaration be signed and recorded in the Bureau of Conveyances.

12.15.8. Materials and Design. Samples of all materials used for fences and walls shall be submitted to the Design Review Committee for approval and must be compatible with any perimeter walls and fences for the project. Chain link or wire fencing is not permitted.

12.15.9. Good Side Out. Whenever a fence by nature of its construction and materials has a "good side", the good side shall face outward from the property towards the adjacent property, adjacent street, etc. The unfinished side, if any, which exposes framing, support materials, bracing, etc., shall face inward to the property which may, at the option of the Owner, be finished with an approved material.

12.15.10. Access to Adjacent Properties. Where access is required to an adjacent property for the construction of walls/fences (or any other reason) written permission must be obtained from the Owner of the adjacent property prior to accessing the adjacent property.

12.16. Swimming Pools. Whirlpool Baths and Hot Tubs. Swimming pools, outdoor whirlpool baths and hot tubs shall be constructed below grade. If an above ground pool is proposed, the height at the highest point of the pool deck or equipment may not exceed the height of the perimeter fencing. All must be fenced in accordance with the "Fences and Walls" section of these guidelines and with County ordinances and regulations. Filter and skimmer noise shall be abated. The pump and the filter and skimmer unit shall be adequately soundproofed and the pool used in such a manner as to prevent a nuisance to adjacent property occupants. Should undue noise result from the operation thereof, Owner shall take immediate steps to curtail the noise by changing operating methods, providing added soundproofing, etc. Should this not be possible, the Owner shall discontinue use until such time as the noise can be abated. Notwithstanding the Design Review Committee's right to approve and require adjustment to the filtering unit, the Owner shall have full responsibility therefore and shall hold the Association harmless against any and all claims arising from the maintenance and operations of the swimming pool, whirlpool or hot tub and related equipment and improvements. In addition to compliance with the provisions pertaining to exterior lighting, any underwater lighting shall not constitute a nuisance to Owners of adjacent properties.

12.16.1. Inground Pools. Must be fenced in accordance with the Fences and Walls section.

12.16.2. Above Ground Pools and Hot Tubs. The height at the highest point of the pool, deck and equipment may not exceed the height of the perimeter fencing. All other pool regulations are the same as the requirements for Inground pools.

12.17. Water Features and Incidental Structures. Fish ponds, waterfalls, and structures incidental to landscaping that are visible from the street or adjacent property may be constructed only upon the prior written approval of the Design Review Committee. The provisions pertaining to noise, as set forth in Section 12.21, shall apply.

12.18. Built-In Barbecues. Permanent barbecues and barbecue pits that are visible from the street or adjoining property will be considered on individual merit and must be approved in writing by the Design Review Committee.

12.19. Tanks Above Grade. Tanks for the storage of cooking and heating gas or other tanks may be installed, if permitted by government laws and ordinances, provided they are adequately screened from adjacent street or property by fencing or landscaping. This rule is in

no way intended to mean that the Association or the Design Review Committee assumes any responsibility for any hazards connected with tanks.

- 12.20. Solar Units. Solar hot water units have been installed during initial construction. Any modification to or replacement of the system must be approved in writing by the Design Review Committee.
- 12.21. Dog and Shade Houses; Storage Sheds. Dog houses, dog runs, shade houses, storage and tool sheds and other such structures that are visible from a street or adjoining property will be considered on individual merit and must be approved in writing by the Design Review Committee. Pergolas may not exceed 200 square feet and storage sheds and dog houses may not exceed 80 square feet.
- 12.22. Exterior Paving Materials. The Design Review Committee encourages the use of uncolored concrete with sand, trowel or broom finish, brick paver tiles, stamped concrete and other permanent paving materials with matte finishes in neutral or muted earth tones. Asphaltic concrete is not permitted.
- 12.23. Exterior Lighting. Garden lights and floodlights may be installed provided that no light source is visible from neighboring property and that no glare is created which would unreasonably disturb adjoining property Owners or occupants.
- 12.24. Name Plates and House Numbers. All residences must have easily readable house numbers affixed to the dwelling or, on the mailbox. All house numbers shall be similar in size and color to the original design installed by the Developer. Owners who do not have house numbers on either their dwelling or mailbox will receive violation notices.
- 12.25. Mailboxes and Newspaper Tubes. Phase I homes: mailboxes and newspaper tubes shall be constructed similar to those of the initial construction. Phases II through V shall be provided with two keys for their mailbox located at a central location.
- 12.26. Signs. Any signs not specifically allowed in the following subsection are prohibited, regardless of size or placement.
- 12.26.1. For Sale or Rent Signs. According to CC&R 3.4.3, a single sign no larger than 2 feet by 3 feet may be used by Owner for sale, lease or rent.

12.26.2. Political Signs. Political signs made of corrugated plastic or cardboard and no larger than 3 square feet will be allowed during election years starting in October and must be removed by one week after the election. A maximum of three signs per Owner Lot is allowed, one sign per candidate. No signs may be placed in the common areas as the HOA does not support any candidates.

12.26.3. Home Security Signs. Security system signs are allowed in Owner Lots adjacent to the garage and front door planting strip.

12.26.4. Children Playing Signs. Must be store-bought signs and may not block the sidewalks.

- 12.27. Designated Parking Areas on Owner Lots. The portion of the Owner's Lot that includes the driveway and the area adjacent to the driveway closest to the property line is designated as a parking area provided that the area adjacent to the driveway and next to the garage has been rocked with gravel or paved with concrete. (You must submit a Project Application if you plan to do this.) Cars, boats and trailers that have a current registration and are in good working order are permitted to park in the designated parking area. No parking of vehicles is allowed on lawns or other areas of the front yards of Owner Lots.

When other approved parking is insufficient or unavailable, Owner may park boats and/or trailers immediately behind a pre-existing fence on their Lot with Design Review Committee approval. The parking area behind a fence must be either rocked with gravel or paved with concrete. (This will require a Project Application as well.)

See Table 3 for an explanatory diagram of designated parking areas.

13.0. CONSTRUCTION RULES

- 13.1. Underground Installations and Easements. The Owner or its builder shall be responsible for determining the location of easements, utility lines and underground installations prior to the start of any construction.
- 13.2. Grading; Excavation; Fill; Site Work. All grading, excavation, fill and site work shall be done only in accordance with approved drawings and at the expense of the Owner. Excavation, footings or drainage areas extending beyond the subject property line will require the written permission of the affected adjacent property Owner(s). The Owner shall obtain, if necessary, a grading permit for cuts and fills as required by the ordinances of the County of Hawaii and shall

abide by all ordinance requirements. All graded areas on improved Lots shall be landscaped within the time requirements listed below. Graded areas on unimproved Lots must be kept free of noxious weeds or vegetation and maintained by the Owner in good and clean condition in such manner as not to create a fire, safety or health hazard. Weeds may not exceed twelve (12) inches in height at any time. Fill material brought to the site shall be free of adobe, termites and harmful matter. No accumulated waste plant materials will be permitted on such Lots. Surface runoff shall be dispersed or channeled in such a manner as to prevent erosion damage and/or excessive water and soil flow through adjacent Lots. Whenever an Owner excavates or fills Owner's Lot, it shall be done in such a manner as not to adversely affect the drainage of adjacent properties. Whenever excavation or fill creates an unstable or potentially unstable bank condition, the Owner shall take appropriate action to control and retain said embankment. Excavation or fill that creates a high and unsightly retaining wall may be disapproved. In the event that fill or excavation causes destruction of existing drainage swales or natural drainage patterns, it shall be the Owner's responsibility to restore said swales and drainage patterns or to otherwise provide for adequate drainage that does not adversely affect adjoining Lots.

- 13.3. Disposal of Construction Waste and Debris. Each Owner shall be responsible for promptly disposing of construction waste and debris and for keeping the public, private and common areas surrounding his property free of waste and debris at all times. There is no dumpsite available within Lokahi Makai. Refuse bins will be allowed on the lots during construction if emptied on a regular basis and placed in an unobtrusive area approved by the Design Review Committee.
- 13.4. Maintenance of Public Areas During Construction. Owners shall keep all public areas clean during periods of construction. Materials shall not be stored so as to block or partially block public access areas. No construction materials or equipment may be stored in any area visible from adjoining streets. Any damage to common area landscaping or irrigation as a result of residential construction, or owner access to owner's lot for any purpose shall be the financial responsibility of the owner. To insure the area is restored to its original state the work must be performed by the Association's landscape contractor. Owner will be billed for all costs and expenses for the work by the Association.
- 13.5. Ground Termite Treatment. All termite treatment work shall be performed by a properly licensed and qualified pest control operator. Chemicals used outside the buildings or in accessible spaces under

buildings shall be used only in strict accordance with all governmental laws and regulations and with the highest regard for the safety of children, plants and pet life.

- 13.6. Materials. All materials used for structures shall be termite and fungus free and shall not be used or secondhand. Materials shall not be garish by nature or as a result of their use with other materials. A mix of materials will be approved only if the materials in the proposed use will complement one another. The non-availability of materials approved for use is not sufficient justification for substitution of materials, and the use of any materials that vary aesthetically from those approved is not authorized without specific written approval by the Design Review Committee. Acceptable material is a wood or hardi type product and stucco, design styles shall be board and batten and/or shiplap.

14.0. LANDSCAPE RULES

- 14.1. Completion. For existing homes, each initial Owner is obligated and required to install rear yard landscaping in a manner that complies with the Design Guidelines of the Association within six (6) months of the transfer of possession of the Residential Lot from Declarant to Owner. With respect to new construction, each initial Owner is obligated and required to install front and side yard landscaping in a manner that complies with the Design Guidelines of the Association within three (3) months of substantial completion of the home and to install rear yard landscaping within six (6) months of substantial completion of the home. The Design Review Committee may authorize extensions to these landscaping time requirements when formal application has been made for landscaping improvements, which require extensive grading or excavation work, or the installation of retaining walls and/or fences, or the incorporation of driveways, walkways, or patios which are visible from the street and which require Design Review Committee approval. In the event that the Design Review Committee has approved landscaping plans that incorporate the improvements listed above, it may grant an extension for the landscaping requirement beyond the expiration date of the applicable permit of not more than six (6) months. The Design Review Committee may also extend these requirements if the Owner makes a substantial and significant effort to complete the landscaping in a timely manner. "Substantial and significant effort" will be determined by the good judgment of the Design Review Committee,
- 14.2. Approved Materials. The Owner may landscape the grounds using any of the plant materials listed in Table I appended hereto. The Design Review Committee may approve the use of any plant materials not

listed in Table I and may adopt a list of prohibited plant materials if deemed appropriate.

- 14.3. Tree Planting. Trees shall not be planted within five feet (5') of property lines and it is recommended that they also not be planted within five feet (5') of utility lines, walls, building foundations and overhangs. Root barriers shall be installed where trees are planted in the vicinity of the building foundations or walls. Trees planted in residential yards shall be pruned so that the canopy does not extend into the common area or over the property lines unless approved by the adjacent property Owner. Trees with aggressive root systems, large or high canopies, or which drop large quantities of leaves or fruit shall not be planted. (See Table 2, Unapproved Plant List.) Fruit trees must be of the dwarf variety.
- 14.4. Obstruction. Homeowners must be considerate of their neighbors when planting and maintaining their landscaping. Trees and shrubs taller than eight feet (8') shall not obstruct desirable views from adjacent homes or create safety, trash or maintenance problems in adjoining properties.
- 14.5. No Removal of Trees or Shrubs. The Owner shall not remove trees, shrubs or similar vegetation from the Common Area without the prior written approval of the Design Review Committee.
- 14.6. Vegetable Gardens: Potted Plants. Vegetable gardens are not acceptable as landscaping for yard areas or planting strips located along any adjoining street but will be allowed in rear yards. More than twenty-five (25) large plants in pots will require formal approval of a landscaping site plan showing plant placement submitted under the provisions of these Design Guidelines.
- 14.7. Maintenance. Any portion of a Lot visible to street or neighboring properties shall be maintained in a good and clean condition. Owners of properties with electrical transformers or switch gear boxes are responsible for ensuring that the transformer and switch gear box areas are kept in a good and clean condition. What constitutes a "good and clean condition" as it pertains to the maintenance of completed landscaping on any Lot shall be determined by the reasonable judgment of a majority of the members of the Design Review Committee.

TABLE 1
APPROVED PLANT MATERIALS

Common Name	Scientific/Family Name
African Tulip	Spathodea campanulata
Allamanda	Allamandacathartica
Anthurium	Araceae
Areca Palm	Chrysalidocarpus lutescens
Bird of Paradise	Strelitzia reginae
Bougainvillea	Bougainvillea specitabilis
Bromeliad	Vriesea sp.
Croton	Codiaeum variegatum
Dieffenbachia	Dieffenbachia seguine
Dwarf Date Palm	Phoenix dactylifera
Eldorado	
Elephant Ear	Colocasia esculenta
Firecracker Plant	Russelia
Gardenia	Gardenia brighamii
Giant White Bird of Paradise	Strelitzia reginae
Ginger	Hedychium
Heliconia	Heliconia lingulata
Hibiscus	Hibiscus rosa-sinensis
Hong Kong Orchid Tree	Bauhinia blakeana
Impatiens	Impatiens sodenii
Iris	Dietes bicolor
Ixora	Ixora sp.
Jatropha	Jatropha integerrima
Lilies	Crinum
Lima Paka	
Manila Palm (or similar)	Veitchia merrillii Mock
Orange	Murraya paniculata
Mondo Grass	Ophiopogon japonicus
Monstera	Monstera deliciosa
Naio papa	Myoporum sandwicense
Natal Plum	Carissa macrocarpa
Naupaka	Scaevola taccada
Nehe	Lipochaeta
Orchids	Orchidaceae

Palm	Areaceae Peace Lily
Spathiphyllum Plumbago	
Plumbago auriculata Plumeria	
Fragpiani	
Purple Ground Cover	
Queen Date Palm	Syagrus romanzoffiana
Red Ivy	
Rosemary	Rosmarinus officinalis
Royal Poinciana Tree	Delonix regia
Sago Palm Tree	Cycas circinalis
Silver Lady Fern	Blechnum brasiliense
Snow Bush	Breynia disticha
Song of India/Song of Jamaica	Pleomele Reflexa
Ti Leaf	Cordyline fruticosa Tree
Fern	Filicium decipiens
Variegated Liriope	Liriope muscari 'Variegata'
Wax Leaf Palm Tree	Copernicia alba

TABLE 2
UNAPPROVED PLANT MATERIALS

Common Name	Scientific/Family Name
Autograph Tree	Clusia rosea
Banyan Tree	Ficus benghalensis
Be-still	Thevetia peruviana
Breadfruit	Artocarpus altilis
Christmas berry	Schinus terebinthifolia
Fichus	Ficus benjamina
Mexican Fan Palm	Washingtonia robusta
Monkey Pod	Samanea saman
Oleander	Nerium Oleander
Octopus Tree	Shefflera actinophylla
Palm Trees	Any palm trees that are not on Table 1 All others to be approved by the DRC

This is not a comprehensive list, if you have any questions, please contact the Design Review Committee. We will be happy to assist you.

**TABLE 3
DESIGNATED PARKING AREAS**

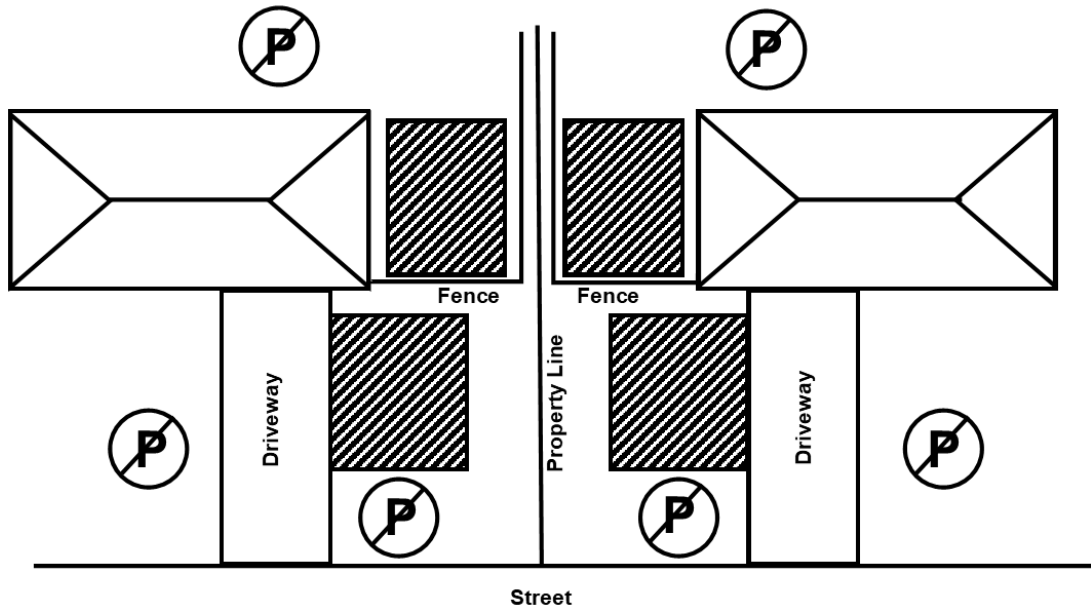


TABLE 4 APPROVED EXTERIOR COLORS

Updated 10/2021

These are all Benjamin Moore Colors. You may use other brands with colors that match these colors if you choose, however ONLY THESE colors will be approved.

BODY COLOR

April Showers – 1507	Hamilton Blue – HC-191	Richmond Bisque- HC-177
Bedford Blue – 1679	Havana Tan – 1121	Saybrook Sage – HC-114
Briarwood – HC-175	Italian Ice Green – 2035-70	Stonington Gray – HC-170
Caldwell Green – HC-124	Lenox Tan – HC-44	Stormy Sky - 1616
Chelsea Gray – HC-169	Long Valley Birch - 1021	Tate Olive – HC-112
Chocolate Mousse – 1025	Louisburg Green– HC-113	Traditional Yellow – 170
Coventry Gray – HC-169	Luminaire - 374	Under the Sea - 693
Crisp Khaki - 234	Montgomery White – OC-148	Victorian Garden – 1531
Duxbury Gray – HC-163	Normandy – 2129-40	Whitall Brown – HC-69
Gothic Green – 637	Revere Pewter – HC-172	

TRIM COLOR

Acadia White – OC-38
Brilliant White – OC-150
Linen White – OC-146
Old Prairie – 2143-50
Simply White – 2143-70
Twilight Dreams – 049 (Only approved with Chocolate Mousse as body color and only if original color)

**NOTE: The only yellow body with green trim that will be approved is:
Traditional Yellow body (170) with Louisburg Green trim (HC-113)**