

## **Hu'elani AOA Policy-Fines and Corrections of Violations- Effective 2/20/2025**

### **Schedule of fines for the violations of the Declaration, Bylaws, House Rules, and Design Guidelines**

The Board of Directors of the Hu'elani AOA (The Board) has the power pursuant to Hawai'i Revised Statutes ("HRS") 514B-104(a)(11) to levy reasonable fines for violations of the Declaration, Bylaws, House Rules and Design Guidelines of the Association (the "association documents") against homeowners, their tenants, guests, employees, property managers, contractors, and anyone else who uses any portion of the Hu'elani property; and

The Managing Agent has authority to: (I) maintain an action for damage or injunctive relief on behalf of the Association; or (II) impose fines and penalties against homeowners, their tenants, families, contract workers and guests, pursuant to Article X, Sections 3 and 4 of the Bylaws; and

The Board adopts the following policy and schedule of fines for any violation of the association documents by homeowners, their tenants, family members, agents, employees, contractors, or anyone else using the association.

Homeowners are responsible for payment of any fines imposed with respect to their homes, or as a result of the actions of the owner, owner's tenant(s), family members, guests, agents, or employees.

#### **I. BYLAW REFERENCES**

- a. Article III. Board of Directors, Section 7, Powers and Duties, (dd) Enforcement
- b. Article X. Section 1 – Rules and Regulations (last sentence) - the Board may establish reasonable fines and penalties to enforce the Rules and Regulations and provisions of condominium documents upon giving notice to all Apartment Owners in the same manner herein prescribed for notice of meetings.
- c. Article X. Section 3 – Abatement and Enjoinment of Violations by Apartment Owners.
- d. Article X. Section 4 – Penalties and Violations

#### **II. ENFORCEMENT POLICY**

The Board of Directors of the Hu'elani Association of Apartment Owners (the Association) has adopted the Enforcement Policy described in current version of the House Rules, Section III, regarding violations of the Association's Declarations, Bylaws, Design Guidelines, and/or House Rules.

The Board of Directors delegates primary enforcement of the Association Rules to the Site Manager (Adjudication) and to the Managing Agent. If it is determined that a violation of association documents has occurred, the Managing Agent shall be presented with a written notice of violation ("citation") prepared by the Adjudication Committee, describing the violation and the related element of the document in which the violation is described. The Managing Agent shall deliver the notice to the

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Homeowner, property manager and to the violator (if the violator is other than the owner) notifying them of the violation.

### **III. VIOLATIONS**

Each violation shall be addressed by the Site Manager (Adjudication) and/or Board of Directors immediately or as soon as the Board of Directors or the Site Manager on behalf of the Board has received a complaint, has determined that the complaint coincides with a violation of the Rules, Guidelines, Declarations, or Bylaws and a letter can be written and provided to the Managing Agent for processing.

There are two classes of violations:

- a. General Violations: A violation of a Rule, Guideline, requirement of the Bylaws, Hawaii State Law, or Declarations of the Hu'elani Association. Typically, General Violations are violations that need to be corrected within a specified period of time and once corrected no longer have lingering definition. Rules and Guidelines exist that describe these restrictions. These Rules are described in the Association Documents.
- b. Event Violations: Also, a violation of a Rule; Guideline; requirement of the Bylaws; Hawaii State Law or Declarations of the Hu'elani Association, but a violation that is a single, non-lingering violation, that happened and does not require any period of time for resolution. Violations such as leaving trash receptacles out on the Common Areas (street or front yard) longer than described in the House Rules, parking between dusk and dawn in Visitors Parking Lots or longer than three hours during daylight hours, noisy or nuisance pets, parties or quiet hour violations that are reported, but require no passage of time to correct. Event Violations can also be repeated offenses of General Violations, such as not maintaining Limited Common Area, of the yard inside the privacy fence; Holiday Decorations are again displayed for more than the prescribed period allowed for each holiday display period; vehicle is again parked in violation of the rules.

### **IV. CITATIONS**

In each case of a violation, a letter will be sent to the Resident of the home to which the violation is charged, to the Homeowner (if different than the resident), to the Board of Directors and the Managing Agent to ensure a record of such citations is maintained and that fines are levied when appropriate. A copy will also be retained in the Association Office for record. Each citation shall include a description of the violation to include a statement from the Association Documents identifying the specific rule that has been violated; a narrative that explains how the rule was violated and what must be done to resolve the issue; and if the violation is "General Violation" that requires the accomplishment of some action for the issue to be resolved, a deadline – usually 14 days following the date of the citation.

All citations and the appeal process are defined in the House Rules, Section III.

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### **V. TYPICAL FINES**

#### **I. For General Violations**

- i. FIRST Notice of Violation, also described as the “Friendly Reminder Letter” for MOST general Violations are non-punitive and are designed to make residents (especially new residents) aware of the rule being broken.
- ii. Second Notice of Violation – Notice of Fine Levied - also referred to as the “WARNING LETTER” is designed to inform residents regarding the fine that is levied and defines that the period to remedy the situation before the next notice and fine are issued. The Second Notice of Violation will carry a fine of \$25.00.
- iii. Third Notice of Violation – Notice of Fine Levied - are typically sent out on the 15<sup>th</sup> day following the date that the Managing Agent processed the Second Notice letter – but are frequently delayed until after the next weekend if Second Notice of Violation – Warning Letter is mailed after mid-week, to ensure that the Homeowner has 14 days to respond to the letter or correct the violation. Most General Violations will carry a fine of \$50.00 if the violation is not remedied within 14 days of the Second Notice of Violation.
- iv. Fourth (and subsequent) Notice of Violation – Notice of Fine Levied - are typically sent at 14 day intervals. Each notice following the third Notice will include an additional fine that is typically \$100. For example, for most General Violations the Fourth Notice is accompanied by a Notice of Fine Levied for \$100.00, Fifth Notice a fine of \$200.00, Sixth Notice a fine of \$400.00, and so forth until the violation is remedied.

The Rules and Bylaws of the Association allow the Board to accelerate the frequency of such CITATIONS so that fines can be levied at 7-day intervals if the Board believes that the violation is being disregarded, or poses a safety issue, or nuisance to other residents. Fines may be levied daily, if the Homeowner is notified by letter and the daily fine start date and a termination situation (what must be accomplished) is described in that letter that will stop the daily fine.

#### **II. FOR EVENT VIOLATIONS**

Event Violations are defined as “violations that are events.” Allowing guests to remain in the clubhouse area unattended, leaving trash receptacles out longer than 24 hours, leaving garden hoses, bicycles, (or any personal objects) in the Comon Areas outside of the fenced yard are examples of Event Violations.

- i. First Notices of Event Violations are non-punitive and are designed to make residents (especially new residents) are aware of the rule being broken.
- ii. Second Notices of Event Violations are punitive and inform recipients of the fine and

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continuing process against the homeowner. Second Notices – Warning Letters for Event Violations may be issued if a second occurrence of an Event Violation of the same House Rule, Design Guideline, Declaration, or Bylaw is reported and found to be valid (by the Adjudication Committee) within 12 months of issuing the association First Notice to the Resident or Homeowner.

- iii. Notice of Fines levied can be issued with subsequent violations of the same rule(s) if the violation is repeated within another 12 months of the previous Violation Notices.

### **VI. IMMEDIATE FINES**

Fines for some violations regarding safety and Clubhouse use may be levied for initial violations. These fines are not restricted as to the frequency at which they can be levied. Fines may be awarded for each infraction, regardless of frequency. Among these are:

- a. Speeding - In excess of 10 MPH - \$50.00 per citation
- b. Setting off alarms by intruding into the Clubhouse area, pool, or spa between 10:30 PM and 4:00 AM - \$100 citation.
- c. Other violations as determined on a case-by-case basis by vote of the Board of Directors – amount of those fines to be determined for each violation addressed. Once an immediate fine for a specific violation has been levied against the Account of any Homeowner, that violation will be added to this list to ensure fair and equal violation adjudication for similar future events.

### **VII. DOG FECAL DNA VIOLATIONS**

Fines for dog fecal matter found in the Common areas and identified by fecal DNA are levied beginning with the FIRST recorded and DNA-verified fecal matter discovery for any registered DOG of a resident (immediate fine).

As with other levied fines, these fines are assessed by the Managing Agent against the account of the homeowner to which the dog is registered.

A copy of the confirmation letter from the DNA testing laboratory identifying the fecal sample and the matching dog's registration number will be sent with Violation Letters associated with the fecal matter found in the Common Areas of the Association.

The following provides special instructions to the Site Manager regarding fines for failure to register with the DNA laboratory through the Hu'elani Association Office as put forth in the House Rules, Section V parts 1 and 2. and Section VII part 15.

- a. All dogs in Hu'elani shall be registered with the currently designated DNA laboratory. All dogs shall be registered with the Association office no longer than 7 days after the animal enters the community. Violation letters will be sent for any dog known to be kept in the Community in

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excess of this period, immediately upon discovery of the dog and this violation letter will indicate that failure to register by 14 days will result in a fine, in accordance with the Fine Schedule. The fecal DNA processing fee will be provided at the time of registration and may change annually based on the present cost of registration with the DNA laboratory.

- b. Fee for Violations – The cost of testing DNA from fecal matter found abandoned in the community will be added to the fine specified in the Schedule of Fines and subject to immediate fines. A breakout of the amount of the fine and the testing costs will be provided in the accompanying Violation Letter.
- c. Immediate Fine – it is unlawful to leave animal feces on common elements (Revised Ordinances of Honolulu Section 29-4.4(a)(9)). Accordingly for any violation of this rule an immediate fine may be imposed of \$50.00 for the first violation, \$100.00 for the second violation and \$200.00 for the third violation and so forth with fines doubling with each violation. The fee for the DNA testing and the cost of mailing the fecal material to the DNA laboratory shall be added to each fine. There will be no warning before imposing a fine and fees under this rule. A “Notice of Fine Levied” will be sent for each violation.

### **VIII. PAYMENT OF FINES AND LIABILITIES, APPEALS, AND RIGHTS OF THE ASSOCIATION**

Payment of fines, the liabilities of the Homeowner, Appeals, and the rights of the Association are described in detail in the House Rules, Section III – Enforcement. An appeal to the board of the fine with notice and an opportunity to be heard and providing that if the fine is paid, the unit owner shall have the right to initiate a dispute resolution process as provided by sections HRS 514B-161, 514B-162.

### **IX. MISCELLANEOUS**

This schedule of fines shall be available in the Association Office for review by Homeowners and at the office of the Managing Agent. The Board reserves the right to establish a new schedule of fines or to add specific elements to the schedule at any time following approval of the Board of Directors.

### **X. REMEDY NOT EXCLUSIVE**

In addition to the imposition of fines, the Board of Directors is empowered to take all such other action as permitted by the Declaration, Bylaws, and the House Rules to enforce the provisions of the Association's governing instruments. 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 exclusive of the other.

NOTHING CONTAINED IN THIS POLICY SHALL BE INTERPRETED TO PREVENT OR DELAY THE BOARD OR THE MANAGING AGENT FROM ENJOYING, ABATING, REMOVING OR REMEDYING ANY VIOLATION OR BREACH WHICH MAY IMPAIR OR IN ANY WAY AFFECT THE VALUE OR SAFETY OF THE PROPERTY OR THE USE, ENJOYMENT, SAFETY OR HEALTH OF ANY HOMEOWNER.